Zimbabwe
Power and hunger – violations of the right to food

Notes

Note on information gathering and sources

Amnesty International visited Zimbabwe in February and June 2004 to undertake research for this report. Although Amnesty International was able to speak with a wide range of sources, many were unwilling to place comments on the record for fear of reprisals. The repression of civil society, and the government's attempts to block all information which is seen as critical, has characterized the Zimbabwe crisis for four years. It has also been extremely difficult to travel in many rural areas since the inception of the government's fast-track land reform programme.

Amnesty International's mission

At its 2001 International Council Meeting in Dakar, Senegal, Amnesty International opened its old mandate, which focused on civil and political rights, to a new mission: *"Amnesty International's mission is to undertake research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination, within the context of its work to promote all human rights."*

Amnesty International's new mission draws no distinction between civil and political rights on the one hand, and economic, social and cultural rights on the other.

Food security

The Food and Agriculture Organization (FAO) defines food security as follows: Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. FAO identifies four conditions towards ensuring food security: adequacy of food supply or availability; stability of supply without fluctuations or shortages from season to season or from year to year; accessibility to food or affordability; and, quality and safety of food.

Food crisis

The World Food Programme uses the following broad definition of "food crisis": Food crisis is the incidence of serious food shortages across a country, but where hunger deaths are rare, and the incidence of acute malnutrition is less than in a state of famine, but there is a significant incidence of chronic malnutrition and the country is still unable to achieve food self reliance and is significantly dependent on international aid.

1. Introduction

Amnesty International has documented the deterioration in the human rights situation in Zimbabwe in numerous reports.[1] Since 2000 the government has used its supporters and state agents to pursue a campaign of repression, aimed at eliminating opposition and silencing dissent. State-sponsored intimidation, arbitrary arrest, torture and attacks on supporters of the political opposition, human rights defenders and the independent media have escalated sharply. Laws have been introduced which restrict the rights to freedom of expression, association and assembly, and prevent scrutiny of the government's actions.

The escalation in human rights violations has taken place against a backdrop of severe economic decline and acute food insecurity. Since 2002 millions of people in Zimbabwe have been dependent on local and international aid programmes for their access to food; tens of thousands, however, are reported to have gone hungry, unable to gain access to food for a variety of reasons. The change in Zimbabwe's food security situation has been dramatic. Until 2000 the country regularly produced surplus grain for export (much of this to the rest of the region).[2] At this time the World Food Programme's (WFP) only operation in Zimbabwe was a procurement office from where it purchased Zimbabwean grain for food aid programmes elsewhere in Africa.

While climatic factors, the HIV/AIDS pandemic and economic decline have all contributed to the magnitude of food insecurity experienced in Zimbabwe, food security experts, including the WFP and the Food and Agriculture Organization (FAO), have stated that government policies and practices have also been a factor in the food crisis. The way in which the government's "fast-track land reform programme" has been implemented is a significant factor affecting domestic food production and the ability of millions of people in Zimbabwe to access adequate food.[3] The fast-track land reform programme was launched shortly after the Zimbabwe African National Union – Patriotic Front (ZANU-PF) government - which has been in power since independence in 1980 - experienced it first major political defeat in a national referendum to change the constitution.

The government responded to the food security crisis in Zimbabwe with a range of policy measures, including requesting food aid from the international community and establishing controls on basic food items. Reports from organizations involved in monitoring food security and human rights in Zimbabwe claim that the response to the food crisis has been manipulated by the government for political gain.[4] The state-controlled Grain Marketing Board (GMB) dominates the trade in and distribution of maize (the staple food) in Zimbabwe; its near monopoly on imports and its poor distribution system have been criticized for undermining the availability of maize throughout the current food crisis.[5] Discrimination in access to GMB grain has been very widely reported.[6]

In May 2004 the government of Zimbabwe stated that the food crisis was over and told the United Nations (UN) and international donors that Zimbabwe no longer needed general food aid.[7] Almost all independent monitors - and even some of the government's own agencies - dispute the claim that Zimbabwe's 2004 harvest is sufficient to meet the country's needs.[8] Local and international human rights groups, as well as organizations involved in monitoring food security in Zimbabwe, believe the government's claims are part of a strategy to manipulate people through fear of hunger ahead of parliamentary elections scheduled for March 2005.[9]

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[1] See: www.amnesty.org
[2] FAO/WFP, "Crop and Food Supply Assessment Mission to Zimbabwe", 1 June 2001.
[3] FAO/WFP, "Crop and Food Supply Assessment Mission to Zimbabwe", reports for 2001, 2002, 2003 and FAO "Special Report Zimbabwe", 5 July 2004.
[4] Amongst the many reports on this issue are: Zimbabwe National NGO Food Security Network, "Community assessments of the food situation in Zimbabwe", (various reports, 2002 – 2004); Physicians for Human Rights, Denmark, "Hunger as a weapon of War: Zimbabwe since the elections", May 2002; Physicians for Human Rights, Denmark, "Vote ZANU-PF or starve", October 2002; Amnesty International press release, "Assault and sexual violence by militia", 5 April 2002 (AI Index AFR 46/032/2002); Human Rights Watch, "Not Eligible: The politicization of Food in Zimbabwe", October 2003.
[5] Zimbabwe NGO Food Security Network, (various reports, 2002 – 2004).
[6] All references as for footnote 4.
[7] The WFP continues to run supplementary feeding programmes targeting approximately half a million vulnerable people, including young children.
[8] See, for example: FAO, "Special Report, Zimbabwe", 5 July 2004; WFP, "Emergency Report n. 34" 20 August 2004; Famine Early Warning Systems Network (FEWS NET), "Rural Food Supplies dwindle", 15 September 2004.
[9] Amnesty International interviews with representatives of civil society, Zimbabwe, February and June 2004; Human Rights Watch, "The Politics of Food Assistance in Zimbabwe", August 2004.

The government of Zimbabwe has a human rights obligation to respect, protect and fulfil the right to adequate food for all persons under its jurisdiction. This report examines the extent to which the government has fulfilled its obligations over the past four years. It examines a range of government policies, including the impact of the implementation of the fast-track land reform programme, and the government's management of the food crisis. Recommendations are made on how to ensure the effective and full realization of the right to adequate food in Zimbabwe.

2. Background

2.1 A context of rising poverty and declining access to food

By the end of the 1980s Zimbabwe was experiencing economic difficulties. Faced with poor economic performance and rising levels of debt, the government adopted an Economic Structural Adjustment Programme (ESAP) in 1991.[10] The ESAP, in Zimbabwe as elsewhere, was accompanied by a decline in incomes but increases in the price of food and other essentials as markets were liberalized.[11] The implementation of the ESAP also had a negative impact on small-scale and communal farmers as the removal of government subsidies on agricultural inputs such as seeds and fertilizer, and a reduction of public expenditure on agricultural extension services, increased the cost of production. As a result of the withdrawal of state involvement in marketing agricultural inputs, many small-scale farmers became dependent on middlemen, and were forced to sell their produce at below-market prices.[12]

The launch of ESAP was immediately followed by a serious drought, in 1992. Although a food aid programme supported by international donors helped to contain the ensuing food insecurity, the severity of the drought undermined livelihoods and deepened poverty in many areas.[13] Poverty in Zimbabwe continued to increase throughout the 1990s.[14] By 1997 almost three quarters of the population was estimated to be living below the national poverty line.[15] High levels of unemployment and rising food prices contributed to social unrest and calls for political change.[16] This manifested itself in increasingly vocal protest from civil society and growing discontent in the rural areas and among the war veterans movement (those who fought in Zimbabwe's war of liberation).[17]

In late 1997 the price of many basic food items including maize, bread and cooking oil rose by between 17 and 42 percent.[18] On 19 January 1998 a further 21 per cent increase in the price of maize meal sparked three days of riots across Zimbabwe.[19] The riots were brutally suppressed by the police and the army. Human rights monitors reported that hundreds suffered serious injury and eight people died.[20] Dissatisfaction with the government grew following the decision to award large unbudgeted pensions to the war veterans in 1997, and Zimbabwe's intervention, in 1998, in the war in the Democratic Republic of the Congo (DRC), the cost of which exacerbated Zimbabwe's already serious foreign exchange shortages. At the same time both external and domestic debt levels were rising.[21] In 1999 Zimbabwe defaulted on foreign debt repayments.[22]

Growing discontent with what was widely perceived as government corruption and mismanagement of the economy contributed to the emergence, in 1999, of the Movement for Democratic Change (MDC), the first

[10] Amnesty International interview with political and economic experts, Zimbabwe, February 2004
[11] Structural Adjustment Participatory Review International Network, "The Policy Roots of Economic Crisis And Poverty, A Multi-Country Participatory Assessment of Structural Adjustment", Based on Results of the Joint World Bank/Civil Society/Government Structural Adjustment Participatory Review Initiative (SAPRI) and the Citizens' Assessment of Structural Adjustment (CASA), November 2001; Central Statistical Office, Zimbabwe, "Poverty in Zimbabwe", June 1998, p. 5.
[12] Structural Adjustment Participatory Review International Network, "The Policy Roots of Economic Crisis And Poverty, A Multi-Country Participatory Assessment of Structural Adjustment", Based on Results of the Joint World Bank/Civil Society/Government Structural Adjustment Participatory Review Initiative (SAPRI) and the Citizens' Assessment of Structural Adjustment (CASA), November 2001, p. 16.
[13] World Bank, Zimbabwe Poverty Profile, 2004
[14] World Bank, Zimbabwe, Country Assistance Evaluation, Operations Evaluation Department, Report No. 29058, 21 May 2004, p. 23.
[15] SADC Regional Human Development Report, 2000, Southern Africa Regional Institute for Policy Studies Harare ISBN I-77905-114-X.
[16] Zimbabwe Human Rights NGO Forum, "Consolidated report on the Food Riots 19 – 21 January 1998", undated.
[17] Ibid; See also Amnesty International Report 1998.
[18] BBC News, "Unrest continues in Zimbabwe for a second day", 20 January 1998.
[19] Ibid.
[20] Zimbabwe Human Rights NGO Forum, "A Consolidated Report on the Food Riots 19 – 23 January 1998", undated.
[21] N Economic Commission for Africa, "Economic Report for Africa 2002", Chapter 4, Zimbabwe – a Crumbling Economy, p. 127; Barclays Economic Bulletin, April 2000.
[22] African Forum and Network on Debt and Development, Zimbabwe: Debt Profile 2001.

real post-independence political opposition to ZANU-PF.[23] In February 2000 the government held a national referendum on a proposed new constitution. Among the government's proposals was a provision to allow it to acquire land for a land redistribution programme without paying compensation to the land owners (discussed further below). A coalition of civil society groups, as well as the Commercial Farmers' Union (which represented the majority of Zimbabwe's white farmers) and the MDC, campaigned against the proposed new constitution, leading to the government's first major political defeat.

2.2 Land reform and commercial agriculture in Zimbabwe

Agriculture plays a vital role in the economy of Zimbabwe. More than 75 per cent of the population derives at least part of its livelihood from agriculture.[24] Prior to the launch of the fast-track land reform programme in 2000 land distribution in Zimbabwe was highly skewed, with just 4,500, mostly white, commercial farmers owning more than 11 million hectares of the land (more than a quarter of the total land area). Commercial agriculture directly accounted for approximately 25 per cent of total formal employment and 40 per cent of the country's foreign exchange earnings.[25] Almost 40 per cent of Zimbabwe's maize was produced on commercial farms.[26]

Conversely, some one million black farmers had access to just 16 million hectares of land (known as the communal areas), which is generally far less fertile and more drought-prone. Land distribution reflected Zimbabwe's colonial history.[27] Poverty and food insecurity in the communal farming areas has been directly linked to the poor quality of the land and the high number of people dependent on a given area of land.[28]

2.3 A history of land acquisition and food security

Zimbabwe was colonized at the end of the 19th century by the British South Africa Company (BSA Co.), operating under a Royal Charter granted by the British Crown. Under the terms of the Charter, the company was empowered to exercise administrative authority and search for and exploit mineral deposits but not to settle the land. When the mineral deposits proved far less than hoped for, the settlers turned to farming, but the uptake of land by white settlers was fiercely resisted by the indigenous peoples in what is often referred to as the first *Chimurenga* (a Shona word meaning fight, struggle or uprising).

In 1919, the Privy Council in London ruled that all "unalienated" land in what was then Southern Rhodesia was Crown Land by right of conquest. Africans could only occupy land with the consent of the Crown (which could be withdrawn) as "tenants at will". Thereafter, the BSA Co. purchased the land from the crown for £2.3 million. In 1923, Southern Rhodesia was granted internal self government by the British government with the land assets of the BSA Co. being vested in the new government. The voting franchise was based on a property or income qualification, which included most whites but excluded almost all the indigenous people.

After the Second World War, a nationalist movement began to emerge in Southern Rhodesia. The main driving forces were the unequal distribution of land, further forced removals to permit additional white settlement, and the oppressive policies of the settler-dominated government. In 1965, the Rhodesian Front (RF) government of Ian Smith made a Unilateral Declaration of Independence (UDI) in defiance of the wishes of the government of the United Kingdom (UK) that the colony extend the voting franchise to a majority of the indigenous people before proceeding to independence. The UDI was followed by the Rhodesian "bush war", or second *Chimurenga*, in which the armies of the two major nationalist parties – Zimbabwe African National Union (ZANU) and the Zimbabwe African People's Union (ZAPU) - fought a armed campaign against the Rhodesian state. This ended with the Lancaster House conference in 1979, which led to the independence of Zimbabwe under a negotiated Constitution.

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[23] At independence ZANU won parliamentary elections. Conflict between the ZANU and ZAPU during the 1980s was resolved by the signing of the 1987 Unity Accord, which saw the two parties merge (although ZAPU was effectively subsumed into ZANU).

[24] UN Economic Commission for Africa, "Economic Report for Africa 2002", Chapter 4, Zimbabwe – A Crumbling Economy, 2002, p. 113.

[25] Commercial Farmers' Union, "The current status of commercial agriculture in Zimbabwe", February 2003

[26] Central Statistical Office, Zimbabwe.

[27] The history of land acquisition and distribution in Zimbabwe is described in the following sections of this report.

[28] World Bank, "Zimbabwe Poverty Profile", 2004. According to the poverty profile "Communal farming areas have 76 percent of the poor and 82 percent of the very poor in Zimbabwe"; Central Statistical Office, Zimbabwe, "Poverty in Zimbabwe", June 1998; See also: Bird K. and Shepherd A., "Chronic poverty in semi-arid Zimbabwe, CPRC Working Paper No 18", June 2003, Chronic Poverty Research Centre, ISBN Number: 1-904049-17-6.

During the colonial period, land in what is now Zimbabwe was apportioned on racial lines, with the white settlers having a disproportionate share of the better land and Africans mostly allocated poorer land. In order to make space for the white settlers, the colonial government forcibly evicted many Africans from their lands, to which they had strong spiritual attachment in many cases, and resettled them on less productive land with higher population densities. Such removals continued until the 1950s. As a result of evident inequality and growing rural poverty among Africans, the land issue became a major rallying point for the nationalist movement, which grew rapidly from 1960 onwards. Both major nationalist parties - ZAPU and ZANU - promised radical land reform as a central element of their political platform.

In 1980, at the time of independence, the 15.5 million hectares of land that comprised the large scale commercial farming area was occupied by about 6,000 white farmers, giving an average size of holding of almost 2,600 hectares, although there was much variation in farm size. Much of the land occupied by white farmers in these areas was not fully utilized, a fact often obscured by the overall profitability and productivity of the commercial sector.[29]

Post independence land policy

Political pressure for land redistribution at independence was intense. However, among the terms of the Lancaster House constitution was a provision that commercial farm land could not be acquired by the state for resettlement except on a "willing buyer, willing seller" basis unless it was "underutilized".[30] The leaders of Zimbabwe's nationalist movements were initially opposed to this provision. The Chair of the conference, Lord Carrington, pledged on behalf of the UK government that the UK would assist the new Zimbabwe government with the costs of a resettlement programme onto white-owned commercial farmland.

Another important factor which influenced the outcome of the negotiations was the fact that Zimbabwe relied on white commercial farmers for 90 per cent of marketed food, in part because agricultural production on communal land had been severely disrupted by the "anti-guerrilla" tactics of the Rhodesian Security Forces.[31] In attempting to stop the armed nationalist groups from accessing support, including food, the security forces destroyed crops and moved rural people away from their fields and into so-called "protected villages".[32]

After independence the new nationalist government proceeded with land reform under the terms of the Lancaster House constitution, with farms purchased as available and beneficiaries selected on grounds of ability to use the land effectively. The initial target, set in 1980, was to resettle 18,000 households over five years. This was quickly trebled (in 1981) to 54,000 households and trebled again in 1982 to 162,000 households.[33] This latter target proved unattainable.

By 1989, some 52,000 households had been resettled on 3.3 million hectares of land.[34] The UK contributed £47 million in direct grants and programme assistance to the land resettlement programme.[35] An evaluation undertaken by the UK government's Overseas Development Administration (ODA) in 1988 indicated that the resettled areas were achieving much higher crop yields and hence farming incomes than the communal areas.[36] Land acquisition reportedly represented approximately half the programme costs, with the balance accounted for by infrastructure and support services such as water, schools and health facilities.

The Zimbabwe government was unable to maintain the initial momentum in the resettlement programme, mainly due to increasing budget deficits and restrictions in the supply of foreign exchange, which compelled the government to cut back on expenditure. Government salaries started to decline in relation to salaries in both the private sector in Zimbabwe and in neighbouring countries. As a result, the public service started to lose its better qualified and more experienced professional and technical staff, who

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[29] Palmer, R. "Land reform in Zimbabwe, 1980 – 1990". In African Affairs Vol. 89, April 1990; Rukuni, Prof. M. et al., "Report of the Commission of Inquiry into Appropriate Agricultural Land Tenure Systems", Government Printer, Harare, October 1994.
[30] The term "underutilized" was used in the Lancaster House Agreement and referred to land which was not being used at all or used at low intensity relative to its potential. In practice it has proved difficult to define in Zimbabwe.
[31] Palmer, R. "Land Reform in Zimbabwe, 1980-1990" in African Affairs, Vol. 89, April 1990.
[32] See Amnesty International Reports for 1975/76, 1977 and 1978; Palmer, R. "Land Reform in Zimbabwe, 1980-1990" in African Affairs, Vol. 89, April 1990.
[33] Palmer, R Land reform in Zimbabwe, 1980 – 1990. In African Affairs Vol 89, April 1990.
[34] Ibid
[35] Foreign and Commonwealth Office, UK, "Zimbabwe: UK Approach to Land Reform" See: http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1019745050212&to=true.
[36] Amnesty International, interviews with land resettlement experts, various dates, 2004.

were highly employable elsewhere.[37] In 1989, reportedly as a consequence of concerns regarding fiscal management and implementation delays related to the public service "brain drain", the UK suspended further disbursements to the programme, with reportedly some £3 million unspent.[38]

The role of the UK government

Substantive discussions between Zimbabwean officials and the ODA did not recommence until the mid 1990s. In September 1996 an ODA appraisal mission was dispatched to the Zimbabwean capital, Harare. The mission proposed a land redistribution project targeted at the rural poor, aiming to resettle between 25,000 and 35,000 households at an estimated cost of between £95 million and £145 million. Funding pledges were to follow a donors' conference.

Following the May 1997 General Election in the UK the Labour Party replaced the Conservative Party, which had been in government since 1979. The newly appointed Secretary of State for International Development, Clare Short, communicated to Zimbabwe's then Minister of Agriculture and Land that the new Labour government did not feel the UK had any special obligation to fund land purchase in Zimbabwe:

"I should make it clear that we do not accept that Britain has a special responsibility to meet the costs of land purchase in Zimbabwe. We are a new Government from diverse backgrounds without links to former colonial interests. My own origins are Irish and as you know we were colonized not colonizers."[39]

This letter was reportedly very badly received by the Zimbabwean government, and apparently continues to be a source of discontent in the administration of President Robert Mugabe.[40]

A donor conference with the government of Zimbabwe on land reform and resettlement finally took place in 1998, organized by the United Nations Development Programme (UNDP). In May 1999, a further UK mission (from the newly constituted Department for International Development, DFID) arrived in Zimbabwe to examine the case for UK and European Union (EU) assistance to the proposed land reform programme, including providing funds for land acquisition.

The mission reported that a number of issues needed to be taken into account in deciding whether to support land reform. At the forefront of these was the high cost of doing nothing. The government of Zimbabwe had made it clear that they would proceed with resettlement irrespective of the donors' decisions on support. The mission reported that without donor participation the programme was unlikely to meet its social or economic objectives, would probably have greater environmental impacts, and the land allocation process was likely to be abused. Donor support and participation could help to temper the programme and increase the likelihood of it achieving its core goals, which the donors shared.[41]

Clare Short's 1997 letter notwithstanding, the UK was the only donor willing to consider funding land purchase in Zimbabwe, so UK participation was critical and the participation of other donors, including the Netherlands, Norway, Sweden and the United States, as well as the World Bank, all hinged on UK participation.[42] All donors were reportedly concerned about governance issues in Zimbabwe and about Zimbabwe's role in the war in the Democratic Republic of Congo.[43] Allegations were also circulating that many senior members of ZANU-PF were acquiring farms bought for resettlement with public funds. This allegation, which reportedly originated in the Commercial Farmers' Union[44], was investigated by DFID. The DFID team found that 15 farms acquired by the government were occupied by senior army officers, cabinet ministers and senior civil servants. All were registered in the name of the government and the DFID team was assured that title would not be transferred to the occupiers without payment.[45]

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[37] Ibid.
[38] Foreign and Commonwealth Office, UK, "Zimbabwe: UK Approach to Land Reform".
[39] Letter from Clare Short to Hon. Kumbirai Kangai, MP, Minister of Agriculture and Land, 5 November 1997, reproduced in full in New African, February 2003.
[40] On 22 May 2004 President Mugabe gave a rare international television interview to Sky News in which he referred to the breakdown in relations between the UK and Zimbabwe, referring back to the Short letter and its impact "Their [Labour's] philosophy was…we only recognize poverty alleviation as the policy that should be applied to Zimbabwe…and don't talk to us about colonial responsibilities, said Clare Short. Ireland was once a colony and so on.."
[41] Amnesty International discussions with land reform expert, various dates, 2004
[42] Ibid
[43] Ibid
[44] Ibid
[45] Ibid

Then, in January 2000 DFID announced that it would allocate £5 million for land resettlement projects through non-government channels.[46] This decision, coming after what government of Zimbabwe saw as substantial delays to its plans and proposals, to stand aside from the government's programme and support civil society initiatives was considered a serious rebuff. Apart from derailing the entire donor-supported programme, it gave support to civil society at a time when civil society movements were seen as a significant threat to ZANU-PF's chances of retaining power, a point underlined by the government's defeat, just one month later, in the February referendum on changing Zimbabwe's Constitution. Furthermore, it meant that a central promise of the liberation struggle could be realized without the direct involvement of ZANU-PF.

By the end of February 2000, war veterans, youth "militia" and ZANU-PF supporters had started to invade commercial farms. In many cases the occupations were accompanied by violence and human rights violations.[47]

2.4 Land invasions

Land invasions have taken place in Zimbabwe at various times since independence. Between 1980 and the late 1990s such land invasions were for the most part peaceful. Worsening economic conditions in the late 1990s led to an increase in demand for land, and an increase in land invasions. From September 1997 onwards (and continuing well into 1998) there was a rash of spontaneous farm invasions, mostly by people from overcrowded communal areas, but also by people from resettlement areas and the towns. Their motives were varied, including lack of access to land, a wish to stake a claim to ancestral lands from which they had been evicted (including the wish to claim land upon which ancestors' graves are located) and to express dislike of individual farmers as well as a generalized protest at the slow pace of reform and redistribution.[48] Few of these invasions were directed by politicians – to the contrary, they were frequently used by the occupiers to extract concessions from politicians.[49]

In 2000 the nature of the invasions changed. It is clear that from this point on the land invasions had government support and were politically organized. Vehicles identified as belonging to the army, police and government agricultural departments reportedly delivered some of the land invaders to farms.[50] In some cases people were reportedly coerced into occupation of land.[51] However, the entire effort also had popular support, and it is clear that the motives of the occupiers were many and varied.[52]

Farm invasions were in full and violent swing during the June 2000 parliamentary elections.[53] Amnesty International investigations at the time concluded that the violence which accompanied the invasions was part of a broader pattern of violent intimidation of those perceived to be opponents of or threats to ZANU-PF. Throughout the farm invasions, and despite court orders compelling them to do so, police failed to act to protect farmers or farm workers from attack, eviction and destruction of property. On 6 October 2000 the government declared a general amnesty for those who had engaged in political violence from 1 January 2000 to 31 July 2000, excluding the crimes of rape, murder and fraud, but including grievous bodily harm.[54]

2.5 The fast-track land reform programme

In April 2000, despite its defeat in the February constitutional referendum, the government amended the constitution to allow for land to be taken from commercial farmers without compensation for the cost of the land (but with compensation for "improvements")[55]. Land became a central issue in the 2000

[46] Foreign and Commonwealth Office, UK, "Zimbabwe: UK Approach to Land Reform". This FOC document also notes that "The UK remains willing to support a land reform programme that is carried out in accordance with the principles agreed by donors and the Zimbabwe Government in 1998."
[47] Amnesty International, "Zimbabwe: Open letter to President Robert Mugabe on the 20th anniversary of independence", 18 April 2000, AI Index: TG AFR/46/15/00; "Zimbabwe: Politically motivated violence deliberately targeting opposition political activists and farming communities in rural areas", AI Index: AFR 46/07/00, 25 April 2000.
[48] Amnesty International interviews with land and agriculture experts, Zimbabwe, February 2004.
[49] Ibid
[50] Amnesty International, "Zimbabwe: The toll of impunity", June 2002, AI Index: AFR 46/034/2002.
[51] Amnesty International interviews with land and agriculture experts, Zimbabwe, February 2004.
[52] Ibid
[53] Zimbabwe Human Rights NGO Forum, "Politically motivated violence in Zimbabwe 2000-2001: A report on the campaign of political repression conducted by the Zimbabwean Government under the guise of carrying out land reform", August 2001.
[54] The negative impact of such amnesties on the rule of law in Zimbabwe was described by Amnesty International in "Zimbabwe: The toll of impunity", June 2002, AI Index: AFR 46/034/2002.
[55] Constitutional Amendment Number 16. This amendment provides that the "former colonial power" is responsible for paying compensation for agricultural land compulsorily acquired for resettlement.

parliamentary elections. In its election campaigning material ZANU-PF stated: *"ZANU PF has decided that 20 years is long enough to be polite to white farmers and Britain and has now started taking back your land following the passing of the Constitutional Amendment (Number 16 Act, 2000) by your parliament."*[56]

The fast-track land reform programme was officially launched in July 2000, when some 3,000 farms were designated for compulsory acquisition. Once acquired the land was resettled under two broad models: small-scale farms (known as A1 farms) were aimed at resettling people from the over-crowded communal areas, while new commercial farms (known as A2 farms) were aimed at those with resources to invest in commercial agricultural production. Almost immediately the fast-track land reform programme was beset by legal and administrative difficulties. Multiple court challenges by commercial farmers, an inadequate budget, political interference, and unclear procedures for the allocation of land, contributed to chaos on the ground.[57]

In many areas of the country implementation of the land reform programme was accompanied by the harassment of and violent assaults on commercial farmers and farm workers. Some were forcibly removed from farms without due process, and with little or no distinction made between farms officially designated for acquisition and those which were not.

Without donor funding the government was unable to provide the newly resettled farmers with supporting infrastructure and services. In March 2001 Zimbabwe's Foreign Minister, Stanislaus Mudenge, appealed to the UN Secretary General "for urgent assistance by the various UN agencies as well as willing donors and non-governmental organizations (NGOs) to assist the resettled farmers who find themselves in dire need of infrastructure and facilities."[58] Donors however made clear that funding was dependent on an end to farm invasions, a return to the rule of law and – for many donors – the implementation of a more gradual land reform programme that did not include compulsory acquisition of farms.[59] The government reportedly felt the conditions which some donors were imposing were intended to significantly curtail and slow-down land reform[60]. However, in September 2001 Foreign Minister Mudenge agreed to comply with many of the donor's conditions at the Commonwealth Foreign Ministers Conference in Abuja, Nigeria. In response, UK agreed to make substantial funds available to Zimbabwe to compensate displaced farmers and provide infrastructure in the resettled areas. A further meeting was held in Harare at the end of October, but land invasions and violence continued and the agreement collapsed.

Allegations of corruption in the land reform process have been reported. These allegations include biased allocation of land, with the best land allocated as commercial farms to influential beneficiaries, while small-scale farmers have been allocated relatively poor land.[61] There has also been discrimination in the land allocation process. Supporters of the MDC have been excluded from the land reform programme in many areas. Reports indicate that some MDC members have been prevented from even applying for land.[62] The number of women allocated land under the fast-track land reform programme is very low countrywide.[63] Women head approximately one-third of households in Zimbabwe. However, women-headed households constituted just 18 per cent of beneficiaries of new small-scale farms and 12 per cent of beneficiaries of the new commercial farms.[64] Farm workers have also been largely excluded from the benefits of land reform, an issue discussed in greater depth in section 5 of this report.

In 2003 President Mugabe appointed a Land Review Committee to assess the fast-track land reform programme. In its report the Committee highlighted numerous problems in programme implementation, including political interference in the allocation of land and what it described as a "woefully inadequate" budget.[65] The Presidential Land Review Committee also noted that the fast-track land reform programme had failed to achieve one of its main objectives: that of reducing population pressure in the communal

[56] Zimbabwe Independent, "Plugging the holes in land reform", 27 September, 2002.
[57] Presidential Land Review Committee, "Report of the Presidential Land Review Committee on the implementation of the fast-track land reform programme 2000- 2002, 2003; BBC News, "Zimbabwe admits land chaos", 17 October 2003; The Zimbabwe Independent, "4 years on, land reform still marred by chaos", 9 January 2004.
[58] Presidential Land Review Committee, "Report of the Presidential Land Review Committee on the implementation of the fast-track land reform programme 2000- 2002", 2003, p. 17.
[59] This was made clear, for example, at the Abuja meeting of Commonwealth Foreign Ministers in September 2001.
[60] Amnesty International interview with land expert, Zimbabwe, June 2004.
[61] Amnesty International interviews with agriculture experts, Zimbabwe, February 2004.
[62] Human Rights Watch, "Fast-track Land Reform in Zimbabwe", March 2002, pp. 27 – 30.
[63] Presidential Land Review Committee, "Report of the Presidential Land Review Committee on the implementation of the fast-track land reform programme 2000- 2002", 2003, p. 25.
[64] Ibid
[65] Presidential Land Review Committee, "Report of the Presidential Land Review Committee on the implementation of the fast-track land reform programme 2000- 2002", 2003, p. 31

areas.[66] According to the Committee's report very few communal areas had seen any significant reduction in population numbers.

Implementation of the fast-track land reform programme coincided periods of flooding and of severe drought in Zimbabwe, which undermined agriculture and food security. Just months before the official launch of the fast track program floods in eastern Zimbabwe, caused by Cyclone Eline had resulted in some 63,000 hectares of crops being washed away.[67] In 2002 a region-wide drought made international headlines as millions across southern Africa faced starvation.

3. Domestic and international legal framework on the right to food

3.1 National law

The right to adequate food is not specifically recognized in the either the constitution or laws of Zimbabwe. An international treaty does not form part of the law of Zimbabwe unless it has been incorporated through an Act of Parliament. Although Zimbabwe acceded to the International Covenant on Economic, Social and Cultural Rights (ICESCR), which enshrines the right to food, in 1991, it has yet to be incorporated into domestic law. As a consequence of this the ICESCR cannot be invoked directly before the Zimbabwean courts. This situation is inconsistent with the recommendation by the Committee on Economic, Social and Cultural Rights that the government of Zimbabwe should appropriately reflect the obligations under the ICESCR in domestic law and policy, and ensure access to the courts to uphold the relevant rights.[68]

3.2 International law

The right to adequate food is enshrined in the ICESCR, to which Zimbabwe is party. It is an important component of the right of everyone to an adequate standard of living. The right to adequate food is fundamental for the enjoyment of all human rights, including those enshrined in the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples' Rights (ACHPR), the African Charter on the Rights and Welfare of the Child, the UN Convention on the Rights of the Child, and the Convention on the Elimination of all forms of Discrimination Against Women, to all of which Zimbabwe is party.

Article 11 of the ICESCR establishes "the right of everyone to an adequate standard of living…including adequate food" and recognizes "the fundamental right of everyone to be free from hunger".

States parties to the ICESCR must ensure that "every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement."[69]

States parties have a core obligation to take the necessary action to mitigate and alleviate hunger as provided for under the ICESCR, even in times of economic recession[70]. States must take steps to achieve progressively the full realization of economic, social and cultural rights, including the right to adequate food. Achievement of this objective is subject to resource availability, but the ICESCR also establishes a core or minimum obligation for states "to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger."[71]

A state thus has an obligation to move as expeditiously as possible towards the full realization of the right to food as well as to ensure the minimum essential level of food to be free from hunger. Furthermore, the ICESCR imposes obligations on states parties to take the course which would achieve fulfilment of the

[66] The Presidential Land Review Committee noted that communal areas remained congested for a number of reasons, including because households allocated land chose to split the household and run both their communal and resettlement holdings, and because a proportion of the land was allocated to urban dwellers, and because land that was vacated in the communal areas was in some cases reallocated to those displaced by the land reform programmes.
[67] International Federation of Red Cross and Red Crescent Societies Press Release: "Red Cross appeals to international community not to forget Zimbabwe", 10 March 2000.
[68] UN Committee on Economic, Social and Cultural Rights, Concluding observations of the Committee on Economic, Social and Cultural Rights: Zimbabwe. 20/05/97, E/C.12/1/Add.12., para. 15.
[69] UN Committee on Economic, Social and Cultural Rights, General Comment No. 12, The Right to Adequate Food, E/C.12/1999/5, para 6.
[70] UN Committee on Economic, Social and Cultural Rights, General Comment No. 12, The Right to Adequate Food, E/C.12/1999/5, para 28.
[71] General Comment No. 12, supra, at para 14.

rights in the shortest possible period of time. Since the essence of progress is continuity, any deliberate retrogressive measure would invariably require the most careful consideration.

As the UN Committee on Economic, Social and Cultural Rights has made clear,

"any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources."[72]

This includes showing that, "it has unsuccessfully sought to obtain international support to ensure the availability and accessibility of the necessary food".[73]

Moreover, States must ensure the *availability* and *accessibility* of adequate food.[74]

"Availability" consists of the possibilities either for feeding oneself directly from productive land or other natural resources, or from well-functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand.[75]

"Accessibility" of adequate food includes both economic and physical accessibility.[76]

Obligations to respect, protect and fulfil the right to adequate food

The government of Zimbabwe has an obligation to respect, protect and fulfil the right to adequate food.

1. The obligation to *respect* existing access to adequate food requires States parties to refraining from any measures that result in preventing or undermining such access.
2. The obligation to *protect* requires measures by States to ensure that other actors do not deprive individuals of their access to adequate food.
3. The obligation to *fulfill* has two elements. Firstly to *facilitate*, meaning the State must proactively engage in activities aimed at strengthening people's access to and utilization of resources and means to ensure their livelihood, including food security. The second element is to *provide,* meaning States are obliged to provide food to those who are unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal. Even in times of severe resource constraints the right to adequate food of **vulnerable members of society** must be protected by the adoption of relatively low-cost targeted programmes.[77]

The African Commission on Human and Peoples' Rights has identified violations of the right to adequate food in terms of these three types of governmental obligation.

"Governments have a duty to protect their citizens, not only through appropriate legislation and effective enforcement but also by protecting them from damaging acts that may be perpetrated by private parties. (…) The African Charter and international law require and bind [states] *to protect and improve existing food sources and to ensure access to adequate food for all citizens. (…) the right to food requires that the* [government] *should not destroy or contaminate food sources. It should not allow private parties to destroy or contaminate food sources, and prevent peoples' effort to feed themselves."*[78]

Non-discrimination and equal protection

The ICESCR provides that:

"The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."[79]

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[72] UN Committee on Economic, Social and Cultural Rights, General Comment No. 3, The nature of States parties obligations, 14/12/90, at para 9.
[73] General Comment No. 12, at para 17
[74] General Comment No. 12, supra, at para 8.
[75] Ibid, at para 12
[76] Ibid, at para 13
[77] Ibid, at para 28
[78] African Commission on Human and Peoples' Rights, The Social and Economic Rights Action Center for Economic and Social Rights v. Nigeria, Communication No. 155/96, October 2001.
[79] Article 2(2)

Thus, the Committee on Economic, Social and Cultural Rights, responsible for ensuring States parties compliance with the ICESCR, has stated that any discrimination in access to food as well as to means and entitlements for its procurement on grounds such as political or other opinion, national or social origin or other status, with the purpose of nullifying or impairing the equal enjoyment of economic, social and cultural rights, including the right to adequate food, constitutes a violation of the Covenant.[80] This obligation is considered capable of immediate application.[81] In order to satisfy the obligation, states are required not only to prohibit discrimination in law, but to monitor and address any discrimination in fact.

The ICCPR[82], which Zimbabwe has ratified, provides that all persons are equal before the law and are entitled to equal protection of the law without discrimination.

International cooperation

All UN member states are obliged to take joint and separate action for the purposes of achieving universal respect for and observance of human rights and fundamental freedoms, including the right to adequate food, for all without distinction.[83] The Committee on Economic, Social and Cultural Rights has said that in implementing this commitment states parties to the ICESCR should take steps to respect the enjoyment of the right to food in other countries, to protect that right, to facilitate access to food and to provide the necessary aid when required. This is the case particularly to ensure realization of minimum essential levels of economic, social and cultural rights, including freedom from hunger, through food aid where necessary.[84]

The Committee on Economic, Social and Cultural Rights has also emphasized that "food should never be used as an instrument of political and economic pressure."[85]

Humanitarian assistance

States which offer humanitarian assistance, either directly or through international organizations, must do so on the basis of non-discrimination, and should actively target the most vulnerable groups.[86]

Offers of humanitarian assistance from impartial humanitarian agencies are not to be considered unfriendly acts, and are therefore not contrary to Article 2(7) of the UN Charter (non-interference in the domestic affairs of a member state).[87]

In addition, Amnesty International considers that where a State arbitrarily denies its consent to humanitarian assistance, when it is unable or unwilling to carry out its obligations to ensure adequate food, this constitutes a violation of the ICESCR.[88]

4. Land reform and human rights

The need for land reform in many parts of the world in order to realize human rights, including the right to an adequate standard of living and the right to food, has been acknowledged by human rights experts. The UN High Commissioner for Human Rights has recommended "effective land redistribution programmes in situations in which extreme land concentration prevents people from being able to feed themselves"[89]. The Foodfirst Information and Action Network (FIAN), an international human rights organization that campaigns for the realization of the right to adequate food, has also argued for land

[80] General Comment 12, para. 18
[81] General Comment No. 3, supra
[82] Article 26
[83] Articles 55 and 56 of the United Nations Charter
[84] General Comment No. 3, supra at para 14; General Comment No. 12, supra at para 36.
[85] General Comment No. 12, supra, para 37
[86] Ibid, para 38; UN Committee on ESCR, General Comment No.14 (Right to Health), E/C.12/2000/4, para 40
[87] Case Concerning the Military and Paramilitary Activities in and against Nicaragua (Nicaragua v USA) (Merits), 27 June 1986, ICJ Reports 1986, p 14, paras 239-245
[88] This view is supported by the Food and Agriculture Organization, The right to adequate food in emergencies, FAO Legislative Study 77 Rome, 2003, page 35, and the UN Committee on ESCR, General Comment No. 12 (Right to Adequate Food), E/C.12/1999/5, para 19.
[89] Office of the High Commissioner for Human Rights, "A Human Rights Approach to Poverty Reduction Strategies, Draft Guidelines", September 2002

reform as "an important policy measure of government in moving progressively towards realising the right to adequate food by guaranteeing access to productive resources".[90]

Effective land reform programmes can be fundamental to giving vulnerable groups such as landless rural people and farm workers access to adequate food by providing land – which is "the means for its procurement".[91] The Global Campaign for Agrarian Reform, an initiative of FIAN and *La Vía Campesina*, a world-wide network of peasant organizations and landless peoples' organizations, sees "special programmes" for such groups as essential in realising economic access to food.

However, programmes to redistribute land must be based on human rights principles. States have an obligation, entrenched in international human rights law, to identify individuals or groups whose human rights may be negatively affected by land reform and to take steps to minimize negative impacts. Particular attention should be paid to mitigating negative impacts on vulnerable groups.

Given the dominant role of agriculture in food security in many parts of the world land reform programmes which may impact on agricultural production should include safeguards to protect the availability of and access to adequate food, both in the short-term and longer-term. In formulating and implementing land reform programmes states should ensure that the rule of law is upheld, and that the rights – including to freedom from discrimination and equal protection of the law – of all persons within the state's jurisdiction are respected.

4.1 Farm invasions, land reform and the rule of law

When the countrywide occupation of commercial agricultural land by state-sponsored war veterans, "militia" and landless peasants began in February 2000, the Commercial Farmers' Union initiated an application before the High Court to declare the occupations illegal and force the police to evict the occupiers. On 17 March 2000, the High Court declared the occupation of farms by those who claimed a right to do so simply in order to demonstrate against Zimbabwe's inequity in land distribution was unlawful, and directed Police Commissioner Augustine Chihuri to instruct his officers to enforce an order for those occupiers to vacate the land within 24 hours. Judge Paddington Garwe specifically directed the Police Commissioner to disregard any instructions contrary to the ruling.[92]

Although Police Commissioner Chihuri had consented to the order, he later applied to the court to amend it on the grounds that he lacked enough manpower to remove those in unlawful occupation, and argued that the occupation was a political matter needing a political rather than a legal solution. The High Court refused his request[93], but the Police Commissioner still failed to obey the order.

The Supreme Court issued another order on 10 November 2000, declaring the entry of uninvited persons on commercial farming properties unlawful. It required the respondents, including the Ministers of Agriculture and Home Affairs and the Police Commissioner - and those under their control - not to give sanction to the entry or continued occupation of farms by persons involved in resettlement until all the legal requirements and procedures had been fulfilled. Government officials and the police appeared to ignore this order, as they had the previous court orders.

On 21 December 2000, the Supreme Court noted that:

" The rule of law has been overthrown in the commercial farming areas and farmers and farm workers on occupied farms have been denied the protection of the law."[94]

In April 2001 the government introduced the Rural Land Occupiers (Protection from Eviction) Act. Under this Act land occupations which had been declared illegal by the Supreme Court were made legal, and provisions in the Act were made retroactive. The Act provided that anyone who had taken up occupation of rural land on or before 1 March 2001 in anticipation of resettlement and who was still occupying that land on the date of commencement of the Act was a "protected occupier". Persons so designated were

[90] Since 1997 FIAN and La Vía Campesina have been leading the Global Campaign for Agrarian Reform. The Global Campaign serves as a platform for promoting effective agrarian reform in countries with highly unequal patterns of land ownership. See: www.fian.org

[91] See Committee on Social, Economic and Cultural Rights, General Comment 12, para. 6.

[92] Consent Order HC 3544/2000 of 17 March 2000, p.1

[93] High Court decision HH 84-2000, HC 3985/2000

[94] These comments, noted in Judge Gubbay's speech of 5 November 2001, come directly from Judgment No. SC 132/2000 of 21 December 2000, Commercial Farmers Union vs President of Zimbabwe & others.

protected from eviction, for a minimum of six months in most cases. The Act further removed the possibility of legal action against a "protected occupier" for trespass, or damages in relation to trespass.

In July 2001 the Chief Justice, Anthony Gubbay, resigned following government attempts to undermine the judiciary.[95] He was replaced by Chief Justice Chidyausiku, who reversed earlier Supreme Court rulings made in 2000 and 2001.

In contrast to the farm invasions the fast-track land reform programme was based on already existing provisions in national legislation. The 1992 Land Acquisition Act specified the legal procedure to be followed by the acquiring authority in the compulsory acquisition of land and included provision for judicial review of compulsory acquisition orders.[96] However, the way in which the fast-track land reform programme was introduced and implemented resulted in digressions from procedures laid down in the Act. The majority of commercial farmers successfully challenged the compulsory acquisition orders on the grounds that the specified procedures for notification were not followed.

In November 2001 the government amended the 1992 Land Acquisition Act.[97] The amendment effectively gave the government immediate rights to land designated for compulsory acquisition, before the Courts ruled on any challenge. The amendment was made retroactive to May 2000. The constitutional legality of this amendment has been challenged by farmers in Zimbabwe.[98] Indeed in 2003 the Presidential Land Review Committee noted that there was:

"a major contradiction observed as between the 1992 Land Acquisition Act as amended, which provides for the compulsory acquisition of land, and the provision embedded in the Constitution which requires that such acquisition be confirmed by the Administrative Court. This contradiction ought to be removed".[99]

The 2001 amendment also stated that while the legal occupier of a designated property would still be entitled to three months to vacate "land other than agricultural land required for resettlement", the notice period to vacate agricultural land was reduced to 45 days.

On 10 May 2002 the government notified some 3,000 commercial farms of its intention to acquire their farms. However, many farmers challenged the acquisition orders in the High Court, on grounds that the orders were invalid because they had not been served in accordance with the stipulated procedure[100]; among the issues raised was the fact that the government had failed to notify mortgage holders.

Another amendment to the Land Acquisition Act was drafted to address this problem. The amendment, introduced in September 2002[101], allowed the government to re-issue acquisition orders (including those that had been invalidated by High Court rulings). It also allowed the government to give just seven days' notice to vacate the property in cases where 90 days had elapsed since the service of the previous – invalid – acquisition order.

In the same month the Minister for Justice, Legal and Parliamentary Affairs, Patrick Chinamasa was quoted in a local newspaper saying that:

"if new challenges come we will not hesitate to go to parliament to plug the loopholes."[102]

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[95] Amnesty International has publicly commented on the intimidation of judges in Zimbabwe, including in "Zimbabwe: Rights Under Siege", May 2003, AI Index: AFR 46/012/2003; Amnesty International, "Zimbabwe: The toll of impunity", June 2002, AI Index: AFR 46/034/2002.

[96] Under Section 5 of the original 1992 Land Acquisition Act the owner of the land and anyone having legal rights in respect of the land must be personally served with a preliminary acquisition order. Section 7 of the original Act provided that the Administrative Court must review any acquisition order, if that order was challenged. Under Section 8 of the original Act, the acquiring authority gives notice of the legal ownership. Thereafter the acquiring authority could issue an eviction notice in writing to anyone occupying the land that, at the date of the preliminary notice, had a right to occupy, after which anyone so notified has 90 days to vacate the farm. Several of these provisions have since been subject to amendment

[97] Statutory Instrument 338 of 2001. The amendment was made under the Presidential Powers (Temporary Measures) Act which allows the President to introduce temporary legislation valid for six months. The amendment was subsequently confirmed by the Parliament of Zimbabwe in May 2002.

[98] Commercial Farmers' Union, "Implications of amendments to the Land Acquisition Act Statutory Instrument 338 of 2001", 14 November 2001.

[99] Presidential Land Review Committee "Report of the Presidential Land Review Committee on the implementation of the fast-track land reform programme 2000- 2002", 2003, p. 5

[100] Financial Gazette (Harare) "Government admits eviction orders invalid" 22 August 2002

[101] Land Acquisition Amendment (No. 2) Act, 2002

[102] Zimbabwe Independent, "Plugging the holes in land reform", 27 September 2002

In 2004 the government introduced yet another amendment to the Land Acquisition Act. This amendment removes the need to serve a personal notice on owners of land designated for compulsory acquisition (or any other person who under the original Act has a legal right to be notified in person); publication in the government gazette and one newspaper is deemed sufficient. This provision was made retroactive, to May 2000, and effectively overturned the earlier court rulings. Clause 9 (2) of the amendment states that the criteria used to exclude land from compulsory acquisition (for example major export-oriented enterprises and farms which specialized in growing agricultural seeds were supposed to be excluded) under the land reform programme were not binding, and such land could be acquired under the programme.

The 2004 Amendment was passed by parliament despite adverse reports by parliamentary scrutiny groups. The Parliamentary Legal Committee described several provisions of the amendment as unconstitutional.[103] The Portfolio Committee on Lands, Agriculture, Water, Development, Rural Resources and Resettlement stated:

"It appears to your Committee that the provision of Clause 9 was motivated by the need to regularize inconsistencies arising from the failure of the Ministry of Lands Agriculture and Rural Resettlement to implement the land reform programme in accordance with the provisions of the principal Act. It is your Committee's view that this will not auger well for the future of agriculture in the country."[104]

Amnesty International's conclusions on the rule of law

Starting with the land invasions in early 2000 and continuing throughout the implementation of land reform programme, the government has subverted the rule of law. Court orders which contradicted government policy have been ignored, and the independence of the judiciary undermined. The police force has been misused for political ends. Commercial farmers and farm workers have been denied equal protection of law. The use of legislation which contains retroactive clauses has undermined the predictability of the law.

The breakdown in the rule of law in Zimbabwe has exacerbated economic decline as both foreign and domestic investment has shrunk.[105] Commercial farmers, whether on farms designated for official acquisition or not, operate in an environment characterized by considerable insecurity. Unable to rely on the protection of the law commercial farmers remaining on their land have reduced their investment in crop production. For example, a key constraint to production of wheat and barley, noted by the Commercial Farmers' Union in early 2004, was concern among farmers that they would not be allowed to harvest the crops they planted.[106]

The breakdown in the rule of law in Zimbabwe has also reportedly had an impact on newly resettled farmers. For example, in some cases small-scale farmers have been resettled only to be moved off their new plots to make way for more influential people.[107] Newly resettled farmers do not have security of tenure, as they neither own the land nor have leases. All land acquired as part of the fast-track land reform programme belongs to the government.

4.2 The impact of farm invasions and the implementation of the land reform programme on the right to food

The UN Committee on Economic, Social and Cultural Rights states that it considers that the core content of the right to adequate food implies:

The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals… The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other rights.

The Committee has explicitly linked these to the obligation to ensure sustainable food security and to strengthen peoples' access to resources (such as land) and means to ensure their livelihood, including

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[103] Zimbabwe Parliamentary Legal Committee, "Adverse Report on the Land Acquisition Bill H.B. 15, 2003", 21 January 2004

[104] Report of the Portfolio Committee on Lands, Agriculture, Water, Development, Rural Resources and Resettlement on Land Acquisition Amendment Bill (H.B. 15, 2003)

[105] United Nations Conference on Trade and Development (UNCTAD), World Investment Report 2001; Economic Commission for Africa, "Economic Report on Africa 2002", Chapter 4, Zimbabwe – A Crumbling Economy

[106] Commercial Farmers' Union of Zimbabwe, "Production issues affecting commercial agriculture ion Zimbabwe", February 2004

[107] Amnesty International interview with land and agriculture experts, Zimbabwe, February 2004

food security.[108] Throughout Zimbabwe's current food crisis there have been problems of both access to and availability of food. Some of the problems can be directly related to the way in which the fast-track land reform programme was implemented.

Impact of farm invasions and the implementation of the fast-track land reform programme on food availability

Both the farm invasions and the way in which the fast-track land reform programme was implemented have contributed to a reduction in the domestic production of both food and export crops in Zimbabwe.

The land invasions and forced removal of commercial farmers and farm workers by war veterans and supporters of ZANU-PF caused an almost immediate decline in the land area cultivated. Many of the 'settlers' who took part in farm invasions were not intended as permanent occupiers and did not engage in any significant agricultural production on the land they occupied.[109] As one Zimbabwean agricultural expert commented, the political thinking behind land invasions appears to have been "occupy first, worry about production later".[110]

On 28 April 2000 the Food and Agriculture Organization (FAO) reported on the land invasions and their likely impact on food security:

"Over the past few weeks, groups of independence war veterans and others have attacked owners of these farms and their employees, inflicting serious injuries to many and even killing some, and burning crops in fields and stores. This has created a climate of fear amongst the farmers, many of whom have abandoned their farms… These events are taking place at a time when the farmers should be harvesting, processing and marketing their crops, particularly maize, the country's staple food, and tobacco, the top foreign exchange earner. It is also the time to start preparing for planting the wheat crop in June/July… There is, therefore, growing concern that if the violence continues, there will be a serious drop in food production and supply, jeopardizing national food security. While the impact of the disturbances on the food supply situation may be significant this year, it may be felt more severely next year."[111]

Further disruption to commercial agriculture followed with designation of some 3,000 farms for compulsory acquisition under the fast-track land reform programme in July 2000. As noted earlier the majority of commercial farmers challenged compulsory land acquisition. The government was apparently unable to address the volume of legal challenges and acquisition orders lapsed. As a result many farmers remained on their land, although in situations of great uncertainty.[112] Some, however, were forcibly evicted. Many of those farmers who remained on their land pending the outcomes of court action reduced production, or stopped planting altogether, because of uncertainty about the future.[113] In some cases farmers still resident on their farms were told by the authorities they could not engage in production.[114]

During the second year of implementation of the fast-track land reform programme drought resulted in widespread crop failure across southern Africa. On 26 April 2002 President Mugabe declared a State of Disaster in all communal lands, resettlement and urban areas.[115] Noting the impact on food security the WFP stated that:

"From June, more than 5 million people will need food aid, increasing to 6.1 million from December. The extremely poor main growing season has been caused by a combination of severe drought between January and April in many parts of the country and the near collapse of large-scale commercial production due to land reform activities."[116]

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[108] UN Committee on ESCR, General Comment No. 12 (Right to Adequate Food), E/C.12/1999/5, paras 7, 8 and 15
[109] Amnesty International interview with agriculture experts, Zimbabwe, February 2004
[110] Ibid
[111] FAO Special Alert No. 307: "Zimbabwe - Concerns over food security mount as economic problems deepen and disturbances affect food production", 28 April 2000
[112] Amnesty International interviews with farmers, Zimbabwe, February 2004
[113] Amnesty International interviews with agriculture experts in Zimbabwe, February 2004; See also: Commercial Farmers Union, Farm Invasions and Security reports.
[114] Amnesty International interview with commercial farmers, February 2004; Commercial Farmers Union, "Farm Invasions and Security Report", 3 May 2002.
[115] BBC News, "Zimbabwe 'disaster' as famine looms", 30 April 2002
[116] WFP, "Emergency Report n. 22", 31 May 2002

Despite the State of Disaster, on 10 May 2002 the government notified some 3,000[117] commercial farmers of its intention to acquire their farms and gave them 45 days to cease farming. Many farmers went to the High Court and challenged the orders. However, they were reluctant to invest in the production of winter wheat[118], largely because of fears they would be evicted before they could harvest their crops. Wheat (as bread) is Zimbabwe's "second staple" food[119]; prior to the implementation of the fast-track land reform programme the bulk of Zimbabwe's domestic wheat production took place under irrigation on commercial farms.[120]

As noted earlier, the climate of uncertainty which accompanied the land reform programme also affected agricultural production in the newly resettled and communal areas. This uncertainty is reported to be one factor in the decision taken by some communal households that were allocated land under the programme to split the household, sending some members to the new land while others, often women and children, remained on the communal land holding. This decision to split household labour resources has reportedly had a negative impact on the ability of such households to engage in crop production in both their communal and new land holdings.[121] In many cases draught animals were left behind in the communal areas, which also affected the ability of the household members on the newly resettled farms to plough their land.[122]

Zimbabwe's domestic food production capacity was further reduced by the fact that significant amounts of land allocated under the fast-track land reform programme were not actually taken up. According to the Presidential Land Review Committee report, while beneficiary take-up of small-scale farms (known as A1 farms) was 97 per cent, take-up of new commercial farms (A2 farms) was just 66 per cent.[123] As the Committee's report noted, this implied "a considerable amount of land lying fallow or unused."[124] This was at a time when approximately half of Zimbabwe's population needed food aid. Various reasons were given for the low take-up of A2 farms. These included administrative problems, such as beneficiaries not receiving allocation letters. The Presidential Land Review Committee also reported on irregularities in land allocation, including political interference and land being allocated by both local and national level authorities using unknown criteria.[125]

Another possible factor which may have contributed to farm land allocated under the fast-track land reform programme not being used productively is that some of those allocated land under the new commercial farm (A2) model were not farmers, and did not proceed to reside on the farms allocated to them. Dubbed 'cell phone farmers' or 'weekend farmers' these beneficiaries of the land reform programme are civil servants, soldiers, businessmen or other categories of urban dwellers.[126]

The ability of most farmers in Zimbabwe to cultivate land has been further hampered over the past two to three years by lack of access to the inputs needed to engage in production, particularly seeds and fertilizer.[127] Access to seed and fertilizer has been constrained by both shortages and high prices.[128] While there are many causes for shortages and escalating prices, implementation of the fast-track land

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[117] This figure includes farms which had originally been listed in 2000 but where acquisition orders had lapsed or not been confirmed by the courts

[118] FAO/WFP "Crop and Food Supply Assessment Mission to Zimbabwe", 29 May 2002; Zimbabwe Independent, "Farmers urged to grow more wheat", 31 May 2002

[119] FAO/WFP, "Crop and Food Supply Assessment Mission to Zimbabwe", 1 June 2001

[120] FAO/WFP, "Crop and Food Supply Assessment Mission to Zimbabwe", 19 June 2003

[121] Amnesty International interview with agriculture expert, Zimbabwe, February 2004; Presidential Land Review Committee "Report of the Presidential Land Review Committee on the implementation of the fast-track land reform programme 2000-2002", 2003

[122] Amnesty International interview with agriculture experts, Zimbabwe, February 2004

[123] Land was resettled under two models. The A1 model was aimed at resettling people from the congested communal areas and is a small-holder package. The A2 model was aimed at potential black commercial farmers, and therefore comprised larger parcels of land suitable for profitable commercial production.

[124] Presidential Land Review Committee "Report of the Presidential Land Review Committee on the implementation of the fast-track land reform programme 2000- 2002", 2003, p. 5.

[125] Presidential Land Review Committee "Report of the Presidential Land Review Committee on the implementation of the fast-track land reform programme 2000- 2002", 2003, p. 31.

[126] Amnesty International interviews with agriculture expert and a former government official, Zimbabwe, February 2004; Also the report of the Presidential Land Review Committee on the Implementation of the Fast-track Land Reform Programme 2000 – 2002, page 67 noted the absence of many A2 beneficiaries in Matabeleland South, stating "the majority being civil servants who tend to miss out on support schemes, which was available during the working days of the week".

[127] FAO/WFP, "Crop and Food Supply Assessment Mission to Zimbabwe" reports of 2001, 2002, 2003; FAO, "Special Report on Zimbabwe", 5 July 2004; Presidential Land Review Committee "Report of the Presidential Land Review Committee on the implementation of the fast-track land reform programme 2000- 2002", 2003;Commercial Farmers' Union of Zimbabwe, "Production issues affecting commercial agriculture in Zimbabwe", February 2004; International Federation of Red Cross and Red Crescent Societies, Zimbabwe, "Appeal 2004, no. 01.20.2004", p. 2; The Herald (Harare), "Seed Woes Affect Cropping: Arex", 24 December 2002

[128] Ibid

reform programme exacerbated the problem. For example, farms which specialized in producing seeds were not effectively protected from farm invasions and this reduced domestic seed availability.[129] One factor in the shortage of fertilizer is insufficient foreign exchange to import the required amount of potash and other components.[130] In turn Zimbabwe's already critical shortage of foreign exchange has been exacerbated by the manner of the implementation of the land reform programme, which resulted in reduced production of foreign exchange-earning export crops such as tobacco.[131]

Security of tenure is also a significant issue for many farmers. At present all land acquired under the fast-track land reform programme belongs to the government. As a result newly resettled farmers face difficulties when they wish to access credit in order to invest in production. The absence of security of tenure also has a significant impact on investment and therefore production decisions.[132]

Forced evictions

Since September 2004 thousands of families who took up occupation of commercial farms during the land invasions of 2000 have been forcibly evicted. These evictions have reportedly taken place without due process of law. Representatives of families evicted from one farm in Mashonaland West on 24 and 25 September 2004 claim that police burnt their homes and property. As a result of the forced evictions, thousands of people are now living by the side of the road, without access to food or shelter.[133]

Impact of fast-track land reform on access to food

The UN Committee on Economic, Social and Cultural Rights, in elaborating the issue of access to food, is clear that food must be both physically and economically accessible. Economic accessibility means that people should be able to access food as a result of their economic activities, for example through agriculture or wage-labour. However, the manner in which the fast-track programme was implemented has undermined the economic activities through which some of Zimbabwe's population gains access to food.

Some 70 per cent of farm workers have lost jobs as a direct result of the implementation of the fast-track land reform programme over the past four years, and with it their ability to pay for food, health care and education.[134] Thousands more workers are believed to have lost jobs in related industries. According to the Confederation of Zimbabwe Industries (CZI), companies whose businesses depend on raw materials from the farming sector have been badly affected by the disruption in that sector. They include millers, bakeries and clothing and textile concerns. In 2002 the CZI said large-scale millers had retrenched more than 50 percent of their staff and had closed some of their branches.[135]

Increasing unemployment has been accompanied by steeply rising food prices. The drop in domestic food production is a significant factor in pushing up food prices.[136] The Consumer Council of Zimbabwe (CCZ) has repeatedly warned that the high level of inflation was putting food beyond the reach of many poor households.[137] Substantial price increases have been regularly reported over the last four years. For example the price of a loaf of bread increased fourfold in one week in July 2003.[138] The CCZ has also reported a widening gap between the minimum wage and the monthly basket of basic household items.

Amnesty International's conclusions on the impact of land invasions and the implementation of the fast-track land reform programme on the right to food

While land reform is a significant and legitimate concern for many people in Zimbabwe, particularly those eking out a living on over-populated and depleted communal lands, the government of Zimbabwe's

[129] Amnesty International interviews with agriculture experts, Zimbabwe February 2004.
[130] Commercial Farmers' Union of Zimbabwe, "Production issues affecting commercial agriculture in Zimbabwe", February 2004; Integrated Regional Information Network, "Zimbabwe: Impact of economic crisis on agriculture threatens recovery", 17 September 2003.
[131] BBC News, "Zimbabwe tobacco crop to halve", 24 October 2002; BBC News, "Zimbabwe tobacco sales dive", 22 October 2003.
[132] Amnesty International interviews with agriculture experts, Zimbabwe, February 2004.
[133] Reported to Amnesty International, September 2004
[134] Sachikonye, L. M., "Land Reform for Poverty Reduction? Social Exclusion and Farm Workers In Zimbabwe", Paper Prepared For A Conference On ''Staying Poor: Chronic Poverty And Development Policy'', Manchester University, April 2003.
[135] UN Integrated Regional Information Networks, "Industry Hurt by Land Reform" 15 November 2002
[136] SADC Food Security Network, Ministerial Brief, SADC Regional Early Warning Unit, Harare, 11 April 2003, Barclays Bank, "Economic Bulletin", September 2001 and July 2002, Barclays Bank of Zimbabwe, Harare.
[137] UN Integrated Regional Information Networks, "Zimbabwe: inflation puts basic foods out of reach", 17 July 2003.
[138] Independent (UK), "Zimbabwe faces food riots after massive rise in price of maize", 12 July 2003.

decision to launch the fast-track land reform programme was prompted not by a desire to realize human rights but by a desire to maintain power. Facing the possibility of defeat in the 2000 parliamentary elections the launch of the fast-track land reform programme served as an "electoral carrot", while the farm invasions allowed ZANU-PF supporters to conduct a campaign of harassment and violence directed towards supporters of the political opposition.

The government's obligations under international human rights law to guarantee the right to adequate food for everyone within its jurisdiction means that the government is obliged to take cognisance of any likely negative impacts of its policies on availability of, and access to, adequate food. The evidence gathered by Amnesty International suggests that there was almost no attempt to determine what the negative consequences of implementation of the fast-track land reform programme on availability of or access to food might be; consequently there was no effort made to mitigate those negative consequences.

The implementation of the fast-track land reform programme has reduced overall food availability in Zimbabwe. It has also contributed to undermining economic access to food for a number of groups: those who lost work in agriculture and closely related industries; farmers whose ability to cultivate their land has been undermined by the shortage and high price of inputs; urban populations and others reliant on the market for access to food who have seen prices increase as a consequence of scarcity.

When the entire southern Africa region was affected by severe drought in the 2001/2 agricultural season, the government took no steps to protect domestic crop production. On the contrary, during some of the worst periods of food insecurity experienced in Zimbabwe since independence, significant areas of fertile land went unplanted, and thousands of people were made unemployed.

5. Vulnerability and the right to food

A number of human rights instruments recognize the particular problems of vulnerability of different groups, and place specific obligations on states to combat discrimination against such groups.

Socially vulnerable groups such as landless persons and other particularly impoverished segments of the population may require special attention and sometimes priority consideration with respect to accessibility of food.

When implementing a policy which may affect access to adequate food the government is obliged to identify those most likely to be affected by that policy and take appropriate steps to mitigate the negative consequences. This obligation becomes particularly acute when those affected by that government policy already constitute a vulnerable group.

5.1 The case of farm workers

Amongst those most dramatically and negatively affected by the implementation of the fast-track land reform programme is Zimbabwe's farm worker population. As a direct result of the way in which the land reform programme was implemented the majority of farm workers have lost their jobs or seen stable permanent or contract jobs replaced by highly unstable "piece work"[139]; thousands have also lost their homes and access to farm-based education and health care. However, very few farm workers have benefited from the land reform programme. Less than five per cent of farm workers received land.[140]

In 2000 Zimbabwe's farm worker population comprised some 320,000 – 350,000 workers, which represented one quarter of the formal work force, and 1.8 - 2 million dependants.[141] For the majority of farm workers access to food, clothing and housing has been based on their employment. Food and clothing were purchased; housing came with the job, as did access to some form of education and health care.[142]

The new farmers, whose operations are on a very different scale to the large scale commercial farmers, are not in a position to absorb the majority of the unemployed farm workers. Newly resettled small-scale

[139] Sachikonye, L.M., The Situation of Commercial Farm Workers after Land Reform in Zimbabwe, May 2003.
[140] Sachikonye, L. M., Land Reform for Poverty Reduction? Social Exclusion and farm workers in Zimbabwe, Paper prepared for a conference on "Staying Poor: Chronic Poverty and Development Policy", Manchester University, April 2003.
[141] Sachikonye, L.M., The Situation of Commercial Farm Workers after Land Reform in Zimbabwe, May 2003
[142] The commercial farmers were responsible for paying teachers and health workers on the farm and for the upkeep of the building used. The provision of services to farm workers prior to land reform was variable, and in many cases of poor quality.

(A1) farmers generally use family labour or employ small numbers of workers on a short-term basis. The new commercial (A2) farmers do provide employment, but with more than 30 per cent of such farms not being taken up, this limits the employment opportunities on new commercial farms. While the farm workers complain of unemployment, many of the newly resettled farmers and the government have claimed there is a labour shortage in the newly resettled areas. Farm workers are reported to be reluctant to work for the new farmers because the payment offered is very low, and in some cases payment has been delayed or not made at all.[143] Farm workers who spoke with Amnesty International in June 2004 claimed that new farmers for whom they had done "piece work" had failed to pay them or had paid them only after a long delay. As a consequence they left the farm to seek other means of supporting themselves.

The likely impact of land reform on the food security of farm workers was made clear before the programme was undertaken. A survey of commercial farm workers carried out in 1999 by the Farm Community Trust of Zimbabwe, a local NGO, stated that a total of 323,000 farm workers would be affected by the proposed farm acquisitions, including 144,450 permanent farm workers. The survey noted that:

"If these workers are not given their own plots of land, about 84,000 households will be dislocated. Most of the farm workers do not maintain communal homes."

The same report stated:

"The resettlement exercise will have an immediate impact on the food security of farm workers by disrupting their source of income (wages) and livelihoods."[144]

During the farm invasions farm workers were regularly victims of violence and intimidation and many became displaced from their homes. Some migrated to former homes in the communal areas, or to informal settlements on the margins of the towns. However, when the growing displacement of farm workers was registered as a problem the government stated that they should remain in their homes on farms taken over as part of the fast-track land reform programme[145]. The majority of farm workers therefore live on newly resettled farm land, as they do not have (and have never known) any other home. Those remaining in their homes on newly resettled farms have no security of tenure. Relations between the new farmers and the farm workers are tense, with conflict reported in some areas[146].

Approximately one quarter of the farm worker population is of foreign origin, tracing their roots back to neighbouring countries.[147] Those of foreign decent do not have right of access to land in communal areas. Reports indicate that they are also unable to access land through the land reform programme.[148] The vulnerability of farm workers is compounded by the high prevalence of HIV/AIDS within this community. More than one quarter of the farm worker population may be affected, and women are believed to have a higher prevalence than men. Within the farm worker community there are a significant number of households headed by orphans, and such households are extremely vulnerable.[149]

Amnesty International's conclusion on the impact of land invasions and the implementation of the fast-track land reform programme on farm workers

The way in which the fast-track land reform programme was implemented has highlighted long-term problems in terms of the rights of farm workers. Although the government of Zimbabwe is responsible for ensuring the realization of farm workers' (and their families') human rights, it has long ignored them,

[143] Amnesty International interviews with farm workers and NGO personnel, Zimbabwe, February and June 2004.
[144] Farm Community Trust of Zimbabwe and FEWS NET, "Survey of Commercial Farm Workers, Characteristics and Living Conditions in Zimbabwe", 1999, quoted in FEWS NET monthly report, Zimbabwe Monthly Report 30 August 2000.
[145] Catholic Institute for International Relations, "Land, Power and Poverty: Farm workers and the crisis in Zimbabwe", p. 38.
[146] Amnesty International interviews with farm workers and NGO personnel, Zimbabwe, February and June 2004; Presidential Land Review Committee "Report of the Presidential Land Review Committee on the implementation of the fast-track land reform programme 2000- 2002", 2003. Parliament of Zimbabwe, Second report of the Portfolio Committee on Public Service, Labour and Social Welfare on the plight of farm workers and newly resettled farmers, third session - fifth parliament, presented to parliament on 16 May, 2003.
[147] Kibble, S. and Vanlerberghe, P., "Land, Power and Poverty: Farm workers and the crisis in Zimbabwe, Catholic Institute for International Relations, 2000, ISBN 1852872403.
[148] Kibble, S. and Vanlerberghe, P., "Land, Power and Poverty: Farm workers and the crisis in Zimbabwe, Catholic Institute for International Relations, 2000, ISBN 1852872403, p. 6; Amnesty International interviews with land and agriculture experts, Zimbabwe, 2004.
[149] The Zimbabwe Network for Informal Settlement Action, "The Situation of Children on Commercial Farms in Mashonaland Central", September 2001. See also reports of the Farm Orphan Support Trust, Zimbabwe

leaving food, education and health provision to the discretion of the commercial farmer, without effectively regulating the quality of service provision. Whilst international human rights law does not require the State to provide all services necessary for the realization of economic, social and cultural rights, it must ensure that such services are adequately available, accessible and acceptable.

The government has an obligation to take steps to safeguard the rights of socially vulnerable groups, such as farm workers. By implementing the fast-track programme in the way that it did, with no action to mitigate the negative consequences for farm workers, the government's action not only constitutes a clear *failure to respect* existing access to food, but is retrogressive in terms of farm workers' right to food (and several other rights). According to the UN Committee on Economic, Social and Cultural Rights, retrogressive measures "require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant." No such justification exists in the case of farm workers in Zimbabwe.

The government's failure to prevent violent land invasions and the forced removal of farm workers from their homes and sole source of livelihood constitutes a clear *failure to protect* the right to food of farm workers, as well as several other rights, including the rights to work, to adequate housing and to equal protection of the law.

The government has also *failed in its obligation to fulfil* the right to food. By excluding the majority of farm workers, and their families, from the possibility of being allocated land under the fast-track programme on an equal basis with others in the population, the government excluded farm workers from the opportunity to feed themselves and their families.

Farm workers, a historically marginalized community, should be the subject of special measures of protection. In particular they should not be excluded from the possibility of receiving land under any land reform programme, irrespective of their citizenship. Differential treatment on the basis of citizenship is permitted only in respect of certain civil and political rights, and economic rights in developing countries. It is not legitimate to deny a section of the population access to the means of sustaining themselves and their families on that basis.[150]

Food security and access to land: Case study[151]

"CK" is 70 years old. She lives on a former large-scale commercial farm, where she has lived and worked all her life. When she retired the farmer gave CK a small piece of land for her food needs on the edge of the farm and a small stipend to support herself and her husband in their old age. He assured her that she would always have a place to stay on the farm. Over the period 2000 - 2003, all of CK's children and their partners died of AIDS, leaving 12 grandchildren ranging from three to 16 years old in her care. In 2003 the farm was acquired for resettlement and the farmer was forced to leave. The farm was subdivided and new farmers were allocated these plots. CK and the other farm workers from the farm were permitted to stay in their houses, but the land they had been using was included in the resettlement package and allocated to someone else. None of the farm workers were allocated plots.

The farmer is no longer able to offer the support he used to. CK now finds herself without any way to support herself and her family. She does not have land to grow her own food, and was refused entry to the government "food for work" programme and is refused an allocation of maize from the government controlled Grain Marketing Board. The newly resettled farmers offer work and the children often do *magwaza* (piece work), but at very low rates of pay. "The new farmers call us 'sell outs' and say that we refuse to work for them because we are enemies of the government and support the whites". But the main reason that the family is reluctant to do this work is because the pay is much lower than can be earned through vending and because they are "treated so badly".

6. Addressing the food crisis: government policy and practice

According to assessments by the Food and Agriculture Organization (FAO) and the World Food Programme (WFP) food insecurity has been a serious problem in Zimbabwe since 2001. The food security situation worsened following a severe drought in 2002, which affected much of the southern

[150] Committee on the Elimination of Racial Discrimination, General Recommendation 30, Discrimination Against Non-Citizens, 2004, CERD/C/64/Misc.11/rev.3, p 2

[151] This case study was reported to Amnesty International in February 2004. Details have been changed to protect the identity of the farm workers.

Africa region. More than half of Zimbabwean's population was considered "food insecure" in 2002. Although a joint FAO/WFP crop and food security assessment reported some improvement in 2003, almost half the population was still unable to access adequate food.[152]

In an effort to address the problem the government introduced price controls[153] in October 2001, and the following month appealed to the international community for food aid. The government also operates social safety net programmes such as food or cash for work schemes, and some targeted nutrition programmes. Amnesty International's investigations into the efficacy of the government's response suggest that a number of government policies and actions, while increasing the government's control over food, have exacerbated problems of availability and access for significant numbers of people.

6.1 The role of the Grain Marketing Board

While price controls were imposed on many basic food stuffs, the government took a further step regarding the control of maize, the staple food in Zimbabwe. In July 2001 the government stipulated that maize, wheat, and their milled products, were controlled commodities, and that the parastatal Grain Marketing Board (GMB) was the sole buyer and seller of maize and wheat.[154] The government's effective prohibition on private imports of maize has been strongly criticized for contributing to food shortages. In a 2003 interview, WFP Country Director, Kevin Farrell, stated:

"Throughout this crisis, WFP has advocated for policy change in food marketing, since we believe that letting private traders import and sell food on the market would help to meet a good part of the food gap… If tomorrow, private traders were allowed to import and sell maize, we believe it would certainly help get more food supplies into the market - and that would take some of the pressure off both the government's capacity and the humanitarian response. But there would still be a need for a safety net, since prices may rise for a time and there would still be some people who could not afford to buy the food - but the numbers who could not buy food would be much more manageable."[155]

In late 2002 and early 2003 the government relaxed food import restrictions to allow some NGOs and private traders to import limited amounts of grain. However, the majority of imports still come through the GMB. As well as largely preventing private traders from importing maize the GMB monopoly has prevented traders and private persons from moving domestically-produced maize from areas of surplus to areas of shortage. Farmers are required to sell their surplus grain to the GMB. Grain transported from the rural areas to the towns has been confiscated by the GMB at road blocks.[156] These movement restrictions have exacerbated the problem of low availability of maize in many parts of the country throughout the present food crisis.[157] Restrictions on the internal movement of maize have also been relaxed in 2003 and 2004.[158] However, these measures have also had a limited impact on availability of and access to food.

The UN Committee on Economic Social and Cultural Rights makes clear that one component of the 'availability of adequate food' is a well functioning distribution system. However, despite its monopoly the GMB's national distribution system is reported to be very inadequate. It has been repeatedly criticized by local and international food security monitors.[159]

In July 2003 the Zimbabwe NGO Food Security Network, a collective of local NGOs that monitors food security countrywide on a regular basis, reported that in some areas where people were selling their grain to the GMB as required by law, the GMB deliveries into those areas were inadequate. The GMB system was effectively creating a grain deficit in such areas.[160] The GMB's distribution system has also constrained "physical access" for some people, by imposing a number of restrictions on those seeking to purchase state-controlled grain. These restrictions included requiring proof of identity or residence, which

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[152] WFP, "Emergency Report n. 26", 27 June 2003

[153] Price controls have been controversial. They have limited food availability as control prices were set at levels at which the commodities could not be sold profitably. However, for many poor households the control price in the only one they can afford. See reports of the Zimbabwe Vulnerability Assessment Committee and the Zimbabwe NGO Food Security Network for fuller discussion on the issue of price controls.

[154] Statutory Instrument 235A. The GMB sets a fixed purchasing price and a fixed selling price for maize.

[155] UN Integrated Regional Information Networks, Zimbabwe: Interview with WFP country director, 4 November 2003.

[156] Amnesty International interviews with NGO personnel, Zimbabwe, June 2004.

[157] Presidential Land Review Committee, "Report of the Presidential Land Review Committee on the implementation of the fast-track land reform programme 2000- 2002", 2003, page 78

[158] Amnesty International interview with food security monitor, Zimbabwe, June 2004; UN Integrated Regional Information Networks, "Zimbabwe: GMB eases restrictions on grain sales" 28 April 2003.

[159] For example, see Zimbabwe NGO Food Security Network "Community Assessment of the Food Situation in Zimbabwe", (various reports of 2002, 2003 and 2004); FEWS NET monthly food security updates for Zimbabwe during 2002, 2003 and 2004.

[160] Zimbabwe NGO Food Security Network, "Community Assessment of the food situation in Zimbabwe", July 2003, p. 9.

has reportedly had a disproportionately negative effect on displaced persons and other vulnerable groups, such as orphans, who do not have the required papers.[161]

The GMB's dominant role in grain marketing has had other negative consequences for food security. Although farmers are obliged to sell their surplus grain to the GMB, the GMB often pays them only months after it takes delivery. This can mean that farmers are not able to afford to buy seeds, fertilizer and other agricultural supplies (generally know as agricultural 'inputs') for the next season.[162] The FAO noted the impact of this phenomenon on the amount of land planted in 2003/4:

"Many of the farmers who sold maize to the Grain Marketing Board, in May or June 2003, had to wait up to 6-8 months before being paid. This left them with no working capital for the planting season of October/November, 2003. Largely as a result of this, areas planted to maize in the major producing areas of Manicaland and Mashonaland are estimated to have dropped by between 9 percent and 37 percent."[163]

The government, which insists that farmers sell to the GMB but fails to pay them in a timely manner, is undermining sustainable economic access to food for many small-scale farming households.

The GMB's involvement in agriculture in Zimbabwe extends to running an agricultural credit scheme that supplies farmers with seeds, fertilizer and other agricultural inputs. However, as with the GMB's grain distribution, this scheme has been criticized by food security monitors for late or inadequate delivery of inputs to farmers[164]. Small-scale farmers are the most negatively affected, as better off farmers can afford to travel to GMB depots to collect inputs. Small-scale farmers usually have to wait for the GMB to deliver[165]. Late delivery of inputs also has a negative impact on crop production. According to FAO/WFP's crop and food assessment in 2002:

"The GMB Inputs Distribution Scheme was widely criticized by farmers for not supplying inputs on time, forcing them to plant without basal fertilizer, with resulting poor root growth and susceptibility to drought."[166]

Lack of transparency on food stocks

Accurate data on food availability and accessibility, appropriately disaggregated to show possible variation by gender, vulnerable groups and region is vital to addressing the problem of ensuring food security. However, throughout the current food crisis food monitors and humanitarian organizations have had great difficulty obtaining information from the government. For example, several sources in Zimbabwe confirmed to Amnesty International that the UN has "never really known" the level of grain imported and held by the GMB[167]. This lack of transparency has implications for planning and responding to the crisis.

The Zimbabwe Vulnerability Assessment Committee (ZIM VAC), which includes representatives of government departments, has noted discrepancies between official information provided on GMB imports and its own investigations on the ground. In 2002 ZIMVAC reported that the official data on harvest and imports suggested that there was enough food in the country for the period April to December 2002, but that the statistics did not accord with the situation at community and household level where shortages were being experienced.[168] The report called for further investigation into the situation.

6.2 Food aid programmes

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[161] Loewenson, R., "Relief and recovery in Zimbabwe: Food security in the current humanitarian crisis", March 2003, p. 12
[162] FAO, "Special Report on Zimbabwe", 5 July 2004
[163] Ibid
[164] FAO/WFP, "Crop and Food Supply Assessment Mission to Zimbabwe" 29 May 2002; FEWS NET, monthly reports 2002 and 2003.
[165] FAO/WFP, "Crop and Food Supply Assessment Mission to Zimbabwe", 29 May 2002.
[166] Ibid.
[167] Amnesty International interviews with UN officials; See also: UN Integrated Regional Information Networks, "Zimbabwe: Interview with WFP country director", 4 November 2003 (published on IRIN on 11 November 2003). In this interview WFP's Zimbabwe country director stated that "some donors are also unhappy with what they see as the inadequate information provided by the government on what it has managed to do so far this year in commercially importing and distributing food in the country…There's a certain amount of guess going on – both government and the international community trying to figure out what the other might be planning. It's not easy to plan a humanitarian response in that situation."
[168] ZIM VAC, "Zimbabwe Emergency Food Security and Vulnerability Report", 20 December 2002. See also: Loewenson, R., "Food security in the current humanitarian crisis", Training and Research Support Centre, March 2003, p. 4.

During the current food crisis international food aid has been a significant source of food for millions of people in Zimbabwe who could not otherwise meet their basic food needs. However, the international food aid programme has been beset by problems, which have negatively affected both the availability of and access to food during the crisis.

The government is reported to be extremely suspicious of international donors and non-governmental organizations (NGOs), and to believe that some feeding schemes are attempts to undermine ZANU-PF by providing support to the political opposition.[169] The authorities have placed numerous barriers to humanitarian access. At the height of the food crisis, the process of registering international humanitarian agencies was beset with difficulties and delays.[170] In 2002 the WFP stated:

"the agency has met with a number of serious challenges since the emergency operations began in February (…) WFP's ability to distribute food was limited to start with, especially while the government of Zimbabwe considered the authorization of several NGO partners. The matter is partly resolved, though WFP would still like to have several additional partners, given the enormous scope and complexity of the current crisis."[171]

Both local and international NGOs involved in the distribution of food aid have had difficulty gaining access to certain areas or populations. Food security organizations and NGOs have reported that, in some cases, meetings with beneficiary communities have to be cleared with the police in advance, with notice of up to two weeks required before they can visit some areas.[172] In some cases meetings to discuss food distribution are attended by one or more of: the security services, ruling party politicians, youth "militia" and ZANU-PF supporters. This is reported to be intimidating and contributes to a climate of fear for both the community and aid workers.[173] In some cases local authorities have stopped food aid programmes, while in others war veterans, youth "militia", or other ZANU-PF supporters, have disrupted humanitarian operations.[174] NGOs and aid workers involved in distributing food aid have been harassed and intimidated.[175]

Difficulties on the ground have been compounded at times by the inadequate response of the international community to the food crisis, which threatened the supply of adequate food aid to Zimbabwe. The WFP had to issue warnings and reduce food rations in 2002 and 2003.[176] The situation was compounded in 2003 by the government's delay in making a food aid appeal to international donors.[177] The government and the UN reportedly disagreed about the size of the harvest. Despite warnings by the WFP that it was running out of stock and that delays in the appeal process could affect its ability to feed those in need, the food aid appeal was not made until July.[178] This represents a delay in the normal process for appeals of more than one month.

The international food aid programme was further hampered in 2003 when, in August, the government issued a policy directive, "Policy Operations of Non-Governmental Organizations in Humanitarian and Development Assistance in Zimbabwe", which effectively ended direct involvement by NGOs and put the distribution of food in the hands of local authorities. Donors and the WFP reacted negatively to this move which they saw as having the potential to allow the international food aid operation to be used for political ends.[179] Donor commitments to supply food aid were delayed as a result. The WFP made direct representations to government of Zimbabwe, reportedly making clear that the organization would not allow its food aid to be distributed through government channels.[180] The government subsequently assured the UN it would not implement its August policy.

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[169] Amnesty International interviews with NGO personnel, Zimbabwe, February and June 2004.
[170] Amnesty International interview with UN official, Zimbabwe, February 2004; See also: McIvor, C. "Neutrality in humanitarian assistance: a case study from Zimbabwe", Overseas Development Institute, UK Humanitarian Practice Network.
[171] ReliefWeb, "Humanitarian crisis worsening in Zimbabwe, warns WFP", 28 November 2002
[172] Reported to Amnesty International, June 2004
[173] Ibid
[174] In February and June 2004 Amnesty International spoke to several organizations whose food assistance operations had been interfered with and whose staff had been intimidated. None of the organizations wished to be identified; Also see: The Guardian, "Mugabe stops charities' famine work" 17 October 2002
[175] Amnesty International interviews with UN officials and NGO personnel, Zimbabwe, February and June 2004
[176] WFP Press release, "UN special envoy on southern Africa urges more help for millions of Zimbabweans", September 2002; WFP, "Emergency Report n. 36", 5 September 2003
[177] UN Integrated Regional Information Networks, "ZIMBABWE: Lack of formal appeal threatens food security", 10 July 2003
[178] WFP, "Emergency Report n.30", 25 July 2003
[179] UN Integrated Regional Information Networks, "Zimbabwe: WFP retains control of food distribution" 25 August 2003
[180] BBC News, UN warns over Zimbabwe aid, 23 August 2003

While undertaking research for this report in February 2004, Amnesty International spoke to numerous sources involved in agriculture and food security in Zimbabwe, at which time all predictions were that the 2004 harvest (due in April/May) would fall well short of the level needed for domestic food security.[181] During the same research mission Amnesty International was also told by several sources that the government of Zimbabwe had already decided not make an appeal for international food aid, regardless of the size of the harvest.[182]

In April 2004 the UN stated:

"Based on UN sources (which access [government department] AREX data), the 2004 harvest is expected to provide yields similar or even lower than those in 2003, which was well below averages of the previous decade and the level necessary to ensure national food security."[183]

In May 2004 the government stopped a UN Crop and Food Supply Assessment Mission from completing an assessment of the 2004 crop yield, and then claimed that Zimbabwe had had a "bumper harvest". Speaking on 22 May 2004, President Mugabe asserted:

"Our estimates are there and they are showing us we will have enough food for the country and with a surplus….We are not hungry."[184]

This assertion is widely discredited by independent food monitors and UN agencies.[185] In a report issued by FAO in July, following the partial Crop and Food Supply Assessment Mission in May, FAO stated:

"Based on fieldwork, information from many sources, including Government statistics, rainfall data, satellite imagery, extensive discussions with various industry experts…this year's cereal production is estimated at just over 950,000 tonnes… total cereal utilization [in Zimbabwe] should be almost 2.35 million tonnes. This implies a potentially large national cereal import requirement: nearly 1.3 million tonnes."[186]

In August 2004, the Famine Early Warning Systems Network (FEWS NET), which operates across Africa, issued a food security emergency alert for Zimbabwe in which it noted that although maize availability had improved this would

"*not address the famine threat that could occur in some parts of the country this year. Special attention is required for the most vulnerable districts of Manicland and Matebeleland South Provinces."*[187]

An assessment of food security in rural areas at harvest time, undertaken by the Zimbabwe Vulnerability Assessment Committee (ZIM VAC) – which includes representatives of government departments – has stated that about 2.3 million rural people will need some food assistance in 2004/5.[188] A further 2.5 million people in urban areas may also need food assistance, based on a ZIM VAC survey undertaken in late 2003.[189] In August and September independent press reports claimed that senior provincial officials from Masvingo and Matebeleland North and South provinces, in the southern and western parts of the country, had approached the Ministry of Public Service, Labour and Social Welfare appealing for humanitarian assistance, including food aid.[190] According to WFP these provinces are prone to perennial droughts and include areas currently facing food deficits.[191]

Despite these and many other warnings of growing food insecurity, the Zimbabwe government has continued to maintain that it does not need international food aid. As a consequence of the widespread controversy over the size of the 2004 harvest a parliamentary committee has been tasked to investigate

[181] Amnesty International interviews with agriculture experts, farmers and aid officials, Zimbabwe, February 2004
[182] Amnesty International interviews with aid officials, February 2004.
[183] ReliefWeb, UN Office for the Coordinator of Humanitarian Affairs, "Zimbabwe: Consolidated Inter-Agency Appeal – Revision as of 01 April 2004", April 2004
[184] Sky News, television interview with President Mugabe, 22 May 2004
[185] FAO/WFP Special Report, 5 July 2004; ZIM VAC "Rural food security and vulnerability assessment", April 2004; FEWS NET, "Rural Food Supplies dwindle", 15 September 2004; WFP, "Emergency Report n. 34" 20 August 2004.
[186] FAO, Special Report on Zimbabwe", 5 July 2004
[187] FEWS NET, "Zimbabwe: Access to Food the Biggest Food Security Challenge in 2004/05 Consumption Year", August 2004
[188] ZIM VAC, "Rural Vulnerability Assessment", April 2004
[189] ZIM VAC, "Zimbabwe urban areas food security and vulnerability assessment – September 2003", February 2004
[190] UN Integrated Regional Information Networks "Hunger returns for vulnerable households", 10 September 2004
[191] WFP, "Emergency report n.31", 3 August 2004

the situation.[192] At the time of writing no results were available. Since the cessation of general food aid distribution in June 2004, the WFP is reported to have significantly reduced its operations in Zimbabwe. It continues to operate feeding programmes aimed at approximately half a million vulnerable individuals, including children. In August 2004, the WFP noted the impact of the cessation of general food aid distribution in Zimbabwe:

"The suspension of general feeding in April by international food agencies, in response to Government's announcement that the country has enough food from the 2003/04 agricultural season's harvest, has left the majority of highly vulnerable food insecure households dependent on ineffective coping strategies, with poor prospects for employment income".[193]

A number of local and international NGOs have continued to implement their own feeding programmes in some areas. However, these programmes are under constant threat of closure. At the time of writing some NGOs involved in food aid distribution have had their programmes suspended by government or local authorities pending a decision on their future.[194] Consequently they are unable to distribute the food aid they have in store, despite mounting evidence of food insecurity.[195]

Humanitarian NGOs are operating in an environment that is increasingly hostile towards independent civil society organizations. In September 2004, the government introduced draft legislation governing the operation of NGOs. The Non-governmental Organizations Bill (the NGO Bill) has been widely criticized, including by Amnesty International. While one of the main concerns with the Bill is its deliberate targeting of national and international human rights organizations, NGOs involved in food aid distribution and other relief and recovery programmes in Zimbabwe are also concerned that the legislation, if enacted, will be used to selectively terminate or unduly interfere with their operations.[196] Under the legislation NGOs must register with a government-appointed "NGO Council", comprising five representatives of NGOs and nine civil servants holding at least the rank of under-secretary, drawn from various government ministries. The council will have very broad powers to regulate all activities of NGOs. Amnesty International believes that the NGO Council - like the Media Information Commission provided for under the 2002 Access to Information and Protection of Privacy Act, which has overseen the severe repression of independent media in Zimbabwe - will be a biased body, and will seek to prevent or interfere with the operation of any organization perceived to be critical of the government.

6.3 Discrimination in access to food and food aid

The food embargo in Matebeleland, 1984

"The embargo on food was total: stores were closed, drought relief food deliveries were stopped, houses were searched and food found was destroyed."

Breaking the Silence Building True Peace[197]

During the nationalist armed struggle of the 1970s the minority government of Ian Smith deliberately withheld food from areas in an attempt to starve out nationalist combatants. It was a tactic that the newly independent government headed by Robert Mugabe was to employ again in 1984.[198]

In February 1984 the government deployed the North Korean-trained Fifth Brigade of the Zimbabwe army in Matebeleland South, and imposed a food embargo, both measures aimed at combating the purported threat posed by armed anti-government "dissidents".[199] At the time the embargo was imposed the region was suffering the effects of three years of drought. Food was already in short supply and many were dependent on food aid programmes. The food embargo prevented any food from entering the area. Drought relief was stopped and shops were closed. The army took control of the regional National Foods depot to prevent maize meal from being distributed. The Catholic Church was denied permission to

[192] The Zimbabwe Independent, "GMB faces probe over food estimates", 9 July 2004
[193] WFP Emergency Report 34, 20 August 2004
[194] See for example, WFP Emergency Report n.35 27 August
[195] See for example WFP, "Emergency Report 34", 20 August 2004; FEWS NET, "Zimbabwe monthly report, Rural food supplies dwindle in most districts" August 2004
[196] Amnesty International interviews with NGO personnel, September 2004
[197] Catholic Commission for Justice and Peace/Legal Resources Foundation. "Breaking the Silence Building True Peace (A report on the disturbances in Matebeleland and the Midlands 1980 - 1988)", 1997
[198] Amnesty International report 1985
[199] Ibid

distribute food to hungry parishioners. The food embargo was accompanied by a curfew. Almost all outsiders were prohibited from entering the curfew area.[200]

People were reportedly beaten and tortured for any perceived violation of the food embargo, including sharing food with neighbours. Houses were ransacked by the army and any food found was destroyed. Speeches of some Fifth Brigade commanders at rallies stated the desire of the government to starve the people of Matabeleland to death as punishment for being "dissidents".[201] The food embargo was eventually lifted on 10 April 1984, reportedly as a result of pressure from abroad.[202]

Human rights groups, including Amnesty International, and NGOs involved in monitoring food security in Zimbabwe have repeatedly highlighted discrimination in access to food in Zimbabwe in the context of the current crisis. While the majority of reports of discrimination in the current crisis are related to access to government-controlled GMB grain, discriminatory practices in the registration of beneficiaries for international food aid have also been reported.[203]

Discrimination is primarily based on political affiliation, with members or suspected members of the MDC denied access to food. In 2002 Amnesty International received reports that hungry MDC supporters were being forced to "renounce" their MDC membership, and go through "cleansing rituals" in order to obtain ZANU-PF party cards, and thereby, access to GMB grain.[204]

In 2003 the Zimbabwe NGO Food Security Network stated:

"Procedural barriers and political bias have risen markedly …from 15 per cent of districts in August 2002 to 33 per cent, 38 per cent and 62 per cent in October [2002]*, November 2002 and January 2003 respectively, when they were reported as the most common barrier to accessing GMB grains. The major form of this bias is reported to be the requirement to produce documentation such as* [ZANU-PF] *party cards or letters from political structures."*

Discrimination within the official GMB system is compounded by the actions of youth "militia", and war veterans, who are reported to be directly involved in the distribution of government-controlled grain in some areas.[205] The youth "militia" have also been associated with acts of violence and intimidation against MDC supporters queuing to buy grain.[206]

Discrimination is also reported in the operation of the government-run "food for work" programmes.[207] These are government schemes which provide food or cash in return for work on social development projects, such as road construction. Reports indicate that MDC supporters have been denied access to these programmes[208], and that in some cases MDC supporters have been denied food even after providing labour under the schemes.[209]

Discrimination in access to international food aid has also been reported[210]. Despite efforts by the international distribution system to eradicate biased practices, it is almost impossible for the WFP and the NGOs distributing food aid to monitor an entire country to ensure everyone in need is getting food aid. While most instances of bias have been recorded during the process of registering beneficiaries, in some cases humanitarian organizations have experienced difficulty gaining access to specific areas of the country.[211] Access to constituencies where the Member of Parliament is from the MDC has proved difficult. Information gathered by Amnesty International suggests that humanitarian operations in areas of

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[200] Catholic Commission for Justice and Peace/Legal Resources Foundation. "Breaking the Silence Building True Peace (A report on the disturbances in Matebeleland and the Midlands 1980 - 1988)", 1997

[201] sworn statement dated 8 March 1984, in the files of CCJP details a meeting at Sibomvu in Gwanda District which soldiers called on 23 February 1984 at which a solider who claimed to be one of the leaders of the Gukuruhundi reportedly referred to people having to eat each other.

[202] Lawyers Committee for Human Rights, "Zimbabwe: The Wages of War", 1986

[203] Reported to Amnesty International by human rights monitors in 2002; See also: Human Rights Watch, "Not Eligible: Politicization of food in Zimbabwe".

[204] Reported to Amnesty International by human rights monitors, April 2002.

[205] Financial Times, UK Call for UN force to check food distribution in Zimbabwe 28 January 2003.

[206] Amnesty International press release, "Assault and sexual violence by militia", 5 April 2002, AI Index AFR 46/032/2002

[207] Amnesty International interviews with NGO personnel, Zimbabwe, February 2004

[208] Ibid

[209] Physicians for Human Rights, Denmark, "Vote ZANU-PF or starve", October 2002, p. 24

[210] Human Rights Watch, "Not Eligible: Politicization of food in Zimbabwe", October 2003

[211] Reported to Amnesty International, June 2004

Manicaland, for example, as well as several other areas of the country associated with the political opposition, have been subject to access constraints.[212]

Children denied access to food aid

Since 2002 Amnesty International has received numerous reports of discrimination in access to food aid. In several cases those discriminated against were children.[213]

In January 2002 "KB" attempted to obtain international food aid for her two-year-old daughter through a child feeding scheme being run by an international NGO. Her child was registered for the feeding scheme. Representatives of the NGO, meeting with the community, stressed that food aid was to be distributed to the community regardless of political affiliation. However when the NGO staff left, "KB" and many other parents who were known to be MDC supporters were told by a local official that they would not receive food for their children, and the children's names were removed from the feeding list. Despite appeals from the parents at least 13 children ranging in age from one to five years old were denied access to international food aid.

While in the majority of reports of discrimination in access to food and food aid is based on political affiliation, other sectors of the population have also experienced discrimination.

Despite their vulnerability, farm workers, the majority of whom have lost their jobs, have reportedly been unable to access food aid and other schemes aimed at assisting those who do not have access to adequate food.[214] Some farm workers have received food aid through local NGOs but these schemes do not cover all areas. Amnesty International was told by several sources that the government and some of the new farmers were against food aid being given to the farm workers because this would act as a disincentive to work for the new farmers.[215] NGOs have reportedly been accused of 'sabotaging' the land reform programme by providing food aid to farm workers[216]. In some areas war veterans and youth "militia" reportedly prevent farm workers from accessing the food aid that is available. One farm worker to whom Amnesty International spoke reported approaching war veterans who, he said, were the ones who controlled access to food aid supplies, to ask why the farm workers were not getting food aid. He was told that "the new farmers give you enough".[217] The Zimbabwe NGO Food Security Network has also reported the selective delivery of GMB grain in some newly resettled areas; newly resettled farmers have access, but farm workers are excluded.[218]

The constraints which many newly resettled farmers face have meant that thousands have actually required food aid in 2002 and 2003.[219] However, international donors have been reluctant to distribute food aid to newly resettled farmers. It has been suggested to Amnesty International that one of the reasons newly resettled farmers did not receive food aid, despite growing evidence of need, was the feeling amongst some donors that this would legitimize the land reform process and the accompanying violence.[220] Security in the newly resettled areas is also a problem. A further unfortunate result of donors' reluctance to distribute food aid in the newly resettled areas has been that farm workers still living in these areas are also excluded from food aid.

In early 2004, the WFP began to develop distribution in the newly resettled areas. However, with the Zimbabwe government's decision in June 2004 to end most of the international food aid distribution these programmes will not continue.

Amnesty International's conclusions on the government's response to the food crisis

The government's response to the increasingly severe food shortages which Zimbabwe has experienced since 2001 has been inadequate. Rather than fulfil its obligations to ensure the right to food the government has used the food shortages for political purposes and to punish political opponents.

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[212] Reported to Amnesty International, February and June 2004
[213] The case described here was reported to Amnesty International by human rights monitors in Zimbabwe, April 2002
[214] Amnesty International interviews with aid workers, Zimbabwe, February and June 2004
[215] Amnesty International interviews in February and June 2004
[216] Amnesty International interviews with NGO personnel, Zimbabwe, February 2004
[217] Amnesty International interviews with farm worker, Zimbabwe June 2004
[218] Zimbabwe NGO Food Security Network, "Food and Hunger in Zimbabwe, an appraisal by the NGO Food Security Network", 2002
[219] Amnesty International interview with UN official, February 2004; See also Integrated Regional Information Networks, "Zimbabwe: Resettled farmers in need of aid", 18 November 2003
[220] Amnesty International interviews with aid officials, Zimbabwe, February 2004

By preventing or limiting the private import of grain the government has reduced overall availability of food in Zimbabwe. Furthermore, despite its monopoly the GMB cannot adequately distribute grain. This has further contributed to shortages of food in some areas of the country.

In clear violation of its obligations under human rights law, the government has used the GMB's dominant role in grain distribution to discriminate in access to food based on real or perceived political affiliation, by denying supporters of the political opposition access to food. The government has also allowed discrimination against farm workers, many of whom are unable to access food having lost their jobs as a direct result of the way the land reform programme was implemented. The government has failed in its obligations not to discriminate in access to food and also its obligation to fulfil the right to food for those who, through no fault of their own, cannot access adequate food. That these violations of farm workers rights may be in an effort to force them to accept poor working conditions is also a serious human rights concern.[221]

The government's interference with the local and international food aid programmes has reduced availability of and access to food in some areas of the country. Obstructing the distribution of humanitarian assistance violates the right to adequate food of those who are reliant on food aid.

Finally, in light of the increasing evidence of food insecurity in Zimbabwe in 2004, the government's rejection of international food aid in 2004 is a violation of the government's minimum core obligation to ensure that a significant number of individuals are not deprived of essential food stuffs. Having rejected international food aid the government cannot claim to have met the obligations of "maximum of available resources" including those available from the international community.

Amnesty International's conclusion on the international response to the food crisis

The international community has provided food aid to Zimbabwe since 2001, and in so doing has alleviated the suffering of millions of people. However, the international response has at times fallen short of need and has not been entirely free from discrimination.

Where humanitarian assistance has been denied to newly resettled farmers in need of food aid, the international community has allowed political motives to interfere with the provision of assistance to those in need. This practice may also have undermined the efforts of those humanitarian actors who distribute assistance without discrimination, thus further denying the population of Zimbabwe badly needed help.

7. Food, power and elections: a pattern of abuse

The use of food as an instrument of political pressure is prohibited in international human rights law, as is discrimination on the basis of real or perceived political affiliation. Over the past two years Amnesty International and many other organizations have documented and reported on the use of food to manipulate voters in elections in Zimbabwe. Parliamentary elections are scheduled for 2005; already there are concerns that food will be used as a political tool during these elections.[222]

During parliamentary, local and by-election campaigns in 2002, 2003 and 2004 food was manipulated in a variety of ways to force voters to vote for ZANU-PF or prevent them voting for the MDC[223]. A report on the 2002 parliamentary elections by the International Crisis Group stated:

"At a time of severe deprivation the government released supplies of mealie meal… on the day of the election in certain MDC strongholds. Its intention was that the guaranteed long lines for food would reduce the number of people able to vote."[224]

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[221] Article 1(b) pf the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery, which Zimbabwe ratified on 1 December 1998, states that "the condition or status of a tenant, who is by law, custom or agreement bonded to live and labour on land belonging to another persona and to render some [ ] service to such other person, whether for reward or not and is not free to change his status.

[222] Amnesty International interviews with representatives of civil society and MDC, Zimbabwe, February and June 2004

[223] See: Physicians for Human Rights, Denmark, "Vote ZANU-PF or starve", October 2002; Physicians for Human Rights, Denmark, "Hunger as a weapon of War: Zimbabwe since the elections", May 2002; Zimbabwe Electoral Supervisory Network, various election reports available on: http://www.zesn.org.zw/

[224] International Crisis Group, "Zimbabwe at the Crossroads: Transition or Conflict?" 22 March 2002

A "carrot and stick" approach has been used to manipulate voters. ZANU-PF politicians and candidates, and state-sponsored actors including youth "militia" and war veterans, have reportedly distributed food free or at highly subsidized prices at political rallies and polling stations.[225] They have also threatened people's food access if they do not vote ZANU-PF. In July 2002 the [then] Deputy Foreign Affairs Minister Abednico Ncube reportedly told people at Nkashe Growth Point in Gwanda North in Matebeleland:

"As long as you value the government of the day you will not starve, but we do not want people who vote for colonialists and then come to us when they want food. You cannot vote for the MDC and expect ZANU-PF to help you." [226]

Reporting on the September 2002 Rural Development Council elections the Zimbabwe Electoral Supervisory Network (ZESN) stated that "reports abound of voters who were told they would only receive food if the voted ZANU-PF back into power".

The manipulation of food by ZANU-PF supporters reportedly resulted in the suspension of food aid distributions by donors in some areas. On 10 October 2002, the WFP had to temporarily suspend food aid distribution in Insiza in Matabeleland South following the seizure of three tons of maize from their storage facility by ZANU-PF supporters who were campaigning ahead of the Insiza by-election on 26 October 2002. According to reports, the food seized, which was the monthly ration for some 6,700 people, was subsequently distributed to ZANU-PF supporters.[227]

Following elections those areas of the country which elect MDC candidates have regularly been subjected to acts of retribution.[228] Denial of access to food has been one of the tools of retribution. In 2002 several feed programmes in Binga, an area where the MDC have repeatedly been successful in elections, were suspended. In May war veterans in Binga prevented the distribution of food aid to some 40,000 school children, reportedly to punish their parents for supporting the MDC.[229] The Binga feeding scheme operated by the Catholic Commission for Justice and Peace (CCJP) was stopped for several weeks. In October of the same year Save the Children UK and Oxfam Great Britain were also forced to stop feeding schemes in Binga, reportedly because of the areas' support for the MDC in the Rural District Council elections the previous month.[230]

The "carrot and stick" approach was also evident at the May 2004 by-election in Lupane in Matebeleland North, where the MDC incumbent had died. Maize meal was reportedly brought into the constituency ahead of the election and sold at about 10 per cent of the normal retail price. At the same time communities in the area were allegedly threatened by ZANU-PF officials that if they did not vote ZANU-PF they would not receive food.[231] ZANU-PF won the by-election.

7.1 March 2005: The risk of further violations

Parliamentary elections are scheduled for March 2005. Zimbabwe's main harvest season is April/May, and March is described as the height of the "hungry" season in Zimbabwe (i.e. when the previous harvest has run out and before a new harvest is due). Civil society and human rights groups believe that the timing of the elections will allow for manipulation of government-controlled food.

Although at the time of writing millions of Zimbabweans are unable to gain access to adequate food, the government of Zimbabwe is denying their suffering. Claiming a "bumper" harvest in 2004, the government has told the UN and international donors that Zimbabwe no longer needs food aid. As noted earlier these assertions are widely disputed.[232] The government's claims are believed to be part of a strategy to manipulate people through fear of hunger ahead of the March 2005 elections.[233]

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[225] Human Rights Monthly No. 30, "The Food Crisis", Zimbabwe Human Rights NGO Forum, August 2003, page 3 Jonathan Moyo and Joseph Made reportedly distributed maize at the point of an MDC rally in Insiza. October 2002

[226] This was reported on The Standard newspaper's web site on 21 July 2002

[227] UN Integrated Regional Information Networks, "WFP Suspends Food Aid in Insiza District", October 18, 2002

[228] Amnesty International, Zimbabwe: The toll of impunity, June 2002, AI Index: AFR 46/034/2002

[229] Physicians for Human Rights, Zimbabwe, Voting ZANU for Food: Rural District Council and Insiza Elections

[230] The Daily News, "Zanu-PF Bars Food Aid to Starving Binga Folk", 11 October 2002; UN Integrated Regional Information Networks "ZIMBABWE: Feeding scheme resumed", 29 July 2002

[231] Reported to Amnesty International, 21 May 2004

[232] The following food groups which monitor food security on the ground have publicly stated that Zimbabwe's harvest is both lower than government claims and/or insufficient to meet need: ZIM VAC Rural food security and vulnerability assessment", April 2004; FAO, "Special Report Zimbabwe," 5 July 2004; WFP, "Emergency Report n. 34" 20 August 2004; FEWS NET, "Rural Food Supplies dwindle", 15 September 2004; ZIM VAC Rural food security and vulnerability assessment", April 2004

[233] Amnesty International interviews with civil society representatives, February and June 2004

When food harvested in mid 2004 runs out, many households will be left dependent on grain sold by the GMB. There are conflicting reports about the stocks held by the GMB. Some reports suggest that the GMB will not have sufficient stock to meet demands for grain purchase.[234] On the other hand reports that GMB grain silos are filling up with imported maize has further fuelled concern that the government intends to use food to manipulate voters ahead of the March elections.[235] In a television interview on 22 May 2004, President Mugabe denied that Zimbabwe is importing grain.[236] In response to the question "Are you going to be buying food from outside?" he replied, "Definitely no, never. Not this year."

Given the GMB's history of inept and discriminatory distribution of the grain it controls, and the pattern of abuse of access to food at times of elections over the past two years, Amnesty International is gravely concerned about potential further violations of the rights to adequate food and freedom from hunger around the 2005 elections. Amnesty International is further concerned that with the closure of most humanitarian operations and restrictions being placed on NGOs as a consequence of the NGO legislation, such violations will escalate and go largely unreported. In the context of the manipulation of food around elections, an issue of concern is that some of Zimbabwe's most chronically food insecurity areas – particularly in the south and east of the country – are also areas where the political opposition is most popular. People in these areas are particularly vulnerable to manipulation of food.

8. Recommendations

Amnesty International is concerned by all the violations of human rights discussed in the preceding sections. The Government of Zimbabwe has an obligation to ensure access to adequate food for all persons under its jurisdiction. It also has an obligation to ensure that those whose rights are violated have access to legal remedies or redress.

The following recommendations include actions which should be taken promptly, particularly to address the increasing food insecurity being experienced in many parts of the country, and discrimination in access to food and food aid. Other recommendations should be accomplished through progressive but well-planned and concrete steps, including the development of human rights-based policies and legislation.

8.1 Recommendations to the Government of Zimbabwe:

The Government of Zimbabwe should:

1. Take immediate targeted steps to address the current food shortages, including the following:

    - Allow impartial humanitarian agencies free passage to monitor food security throughout Zimbabwe and report publicly on their findings.
    - Take urgent action to address food insecurity already identified in Zimbabwe. This action must be consistent with Zimbabwe's obligations to mobilize all resources (from all sources including private, international, and national) available to it in order to ensure freedom from hunger.
    - Guarantee the free and unimpeded passage of aid provided by impartial humanitarian organizations and UN agencies such as the World Food Programme. Unimpeded access includes freedom to meet with the community without interference and without the presence of any security forces, youth "militia" or any other "threatening" presence.
    - Ensure immediate access to food for the most vulnerable, including children, those suffering form HIV/AIDS, farm workers and internally displaced persons. The government should accept internationally-agreed criteria and methodologies for assessing vulnerability.
    - In monitoring availability of and access to food, special attention should be paid to those areas, such as in the south and east of the country, which experience chronic food deficits. Specific plans should be made to ensure the right to food is upheld for everyone in these areas.

2. Take immediate, concrete and targeted steps to end discrimination in access to food and/or food aid, specifically the following:

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[234] See for example: UN Integrated Regional Information Networks, "Zimbabwe, No data on bumper crop yet", 13 September 2004; Zimbabwe Standard, "GMB holding maize for only two months", 19 September 2004; Zim Online, "Zimbabwe imports 100 000 tonnes of maize", 22 September 2004

[235] Amnesty International interview with food aid monitor, Zimbabwe, June 2004

[236] Sky News, interview with President Mugabe, 22 May 2004

- Ensure that food aid is distributed to all on the basis of need, irrespective of real or perceived political affiliation, or any other factor or criteria.
- Ensure that an independent and impartial review of the operations of the GMB and its role in the trade, marketing and distribution of grain in Zimbabwe is carried out. This review, which should seek the views of all stakeholders, should make recommendations for the future operation of the GMB and grain marketing in Zimbabwe which are consistent with Zimbabwe's international human rights obligations.
- Ensure that food is distributed by impartial agencies. Youth "militia" and war veterans should not be involved in the distribution of food or food aid; nor should police, army or any other state security agents.
- Repeal or amend all legislation which compromises the delivery of humanitarian assistance, including legislation governing the operation of non-governmental organizations and private voluntary organizations, which is incompatible with regional and international standards.
- Ensure that farm workers have equal access to the land reform process in order to give them an equal opportunity to provide for their own food security.

3. Take immediate, concrete and targeted steps to mitigate the negative impacts of the implementation of the fast-track land reform programme on human rights, including the right to food.

Under international human rights standards, governments are under an obligation to develop and reform agrarian systems in such a way as to achieve the most efficient and equitable utilization of natural resources.[237] Land distribution may therefore be one of a range of legitimate means by which governments can realize the "fundamental right of everyone to be free from hunger".[238] However, any land reform policy should be carried out in accordance with the law and with human rights standards. States should be carried out in accordance with the law, and governments should use all available resources, including those available from the international community, to ensure that, where feasible, those affected receive adequate compensation.

Amongst the measure which the government should undertake are:

a) Consider the establishment of an independent and broad-based commission, which should include representatives of all stakeholders, to review the fast-track and reform programme from a human rights perspective and to make recommendations based on securing the human rights of all. This commission should be chaired by an independent and impartial international expert.

b) Resolve the issues of land ownership, compensation and security of tenure. In resolving these complex problems the government should seek expert advice from UN specialist bodies.

- Create an accurate land register, which reflects the situation at the present time including cases of contested ownership. This register should be made public.
- With special reference to the urgency of ensuring food security the government of Zimbabwe should ensure that all those who have been resettled under the fast-track land reform programme are afforded a sufficient degree of legal security of tenure, which will enable them to invest in agricultural production.
- Farm workers who have been displaced or evicted as a result of land invasions or implementation of the fast-track land reform programme should be entitled to a remedy, including restitution and/or compensation. The situation of farm workers remaining in their homes on farms affected by the land invasions or fast-track land reform programme should be resolved in consultation with farm workers and their representatives (see (c) below).
- Place a moratorium on all evictions until such time as a comprehensive human-rights-based land resettlement policy has been adopted.
- Give instructions to all relevant authorities that evictions may only be carried out in conformity with human rights standards, and should follow: "(a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, … (e) all persons carrying out the eviction to be properly identified; … (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts."[239]

[237] Article 11 (2) (a) ICESCR
[238] Article 11 (2) ICESCR
[239] UN Committee on Economic, Social and Cultural Rights, General Comment 7, para. 15

- Provide immediate assistance to victims of forced evictions who remain without access to adequate food and shelter.
- Former commercial farmers evicted without due process should be entitled to a remedy, including access to justice and adequate reparation. The Government of Zimbabwe should seek the assistance of the international community to resolve this issue.

c) As a matter of urgency, develop and implement a plan aimed at mitigating the negative impact of the land reform programme on the rights of farm workers. This should be done in full consultation with farm workers and should be specific about the needs of vulnerable groups including those suffering HIV/AIDS and orphans/orphan-headed households. Those farm workers who have lost livelihoods as a result of the land invasions or fast-track land reform programme should be entitled to a remedy, including compensation and/or restitution.

d) Seek technical and financial assistance from the international community in order to ensure sustainable food production and therefore greater food security.

4. Take steps to ensure the progressive full realization of the right to food in accordance with international standards to which Zimbabwe is a state party. Specifically:

- Ensure that the International Covenant on Economic, Social and Cultural Rights is incorporated into the domestic law of Zimbabwe through an appropriate Act of Parliament.
- Develop a national strategy to ensure food and nutrition security for all, based on the guidance provided in the General Comment of the Committee on ESCR on the right food. The strategy should address the particular needs of women, farm workers and vulnerable or marginalized social groups. The formulation and implementation of the strategy should comply with the principles of accountability, transparency, people's participation, decentralization, legislative capacity and the independence of the judiciary.[240]
- Ensure that the national budget reflects the government's obligation under Article 2.1 of the ICESCR, to use the maximum of available resources to achieve Economic, Social and Cultural rights in Zimbabwe.

8.2 **Recommendations to the international community**

- Provision of humanitarian aid should be guided at all times by human rights obligations. Essential aid in times of food crisis should not be used by any government as a bargaining tool. No-one in need should be denied aid. This obligation has been clarified by the UN Commission on Human Rights which recently stated: "food should not be used as an instrument of political or economic pressure". The commission reaffirmed the importance of international cooperation and solidarity, as well as the necessity of "refraining from unilateral measures not in accordance with international law and the Charter of the United Nations which endanger food security".[241]
- Continue to urge the Zimbabwe government to ensure free access of humanitarian agencies throughout the country, in particular to ensure that humanitarian assistance, especially food aid, is distributed without discrimination of any kind, and that the most vulnerable are prioritized in its distribution.
- In line with human rights obligations provide the necessary assistance in order to ensure sustainable food production and therefore greater food security in Zimbabwe. The provision of such assistance should cover communal and both old and newly-resettled areas.[242] Such assistance should be provided in a manner that does not prejudice claims on ownership of land, nor affect the legitimacy of claims resulting from either land redistribution, or occupation.
- Reassess the impact of development assistance policies regarding land reform in Zimbabwe on food security in the country with a view to respecting the right to adequate food of the Zimbabwean population.

9. **Acronyms**

ACHPR	African Charter on Human and Peoples' Rights

[240] UN Committee on Economic, Social and Cultural Rights, General Comment 12, para. 23
[241] UN Commission on Human Rights, CHR 60th session, 2004, resolution 2004/19
[242] Sources within the UN in Zimbabwe told Amnesty International that donors were willing to engage in agricultural recovery work in communal but not newly-resettled areas

AIPPA	Access to Information and Protection of Privacy Act (2002)
AREX	Agricultural Research and Extension Services
BSA Co.	British South Africa Company
CCJP	Catholic Commission for Justice and Peace
CESCR	UN Committee on Economic, Social and Cultural Rights
CFU	Commercial Farmers Union
DFID	Department for International Development (UK)
ESAP	Economic Structural Adjustment Programme
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FEWS NET	Famine Early Warning Systems Network
FIAN	Foodfirst Information and Action Network
GMB	Grain Marketing Board
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
MDC	Movement for Democratic Change
NGO	Non-governmental Organization
ODA	Overseas Development Administration (UK)
RF	Rhodesian Front
UDI	Unilateral Declaration of Independence (of 1965)
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
WFP	World Food Programme
ZANU	Zimbabwe African National Union
ZANU-PF	Zimbabwe African National Union – Patriotic Front
ZAPU	Zimbabwe African People's Union
ZESN	Zimbabwe Electoral Supervisory Network
ZIMVAC	Zimbabwe Vulnerability Assessment Committee

Appendix I : General Comment 12, Right to adequate food (Art. 11, Covenant on Economic, Social and Cultural Rights)

Committee on Economic, Social and Cultural Rights, General Comment 12, Right to adequate food, (Twentieth session, 1999), U.N. Doc. E/C.12/1999/5 (1999), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 62 (2003).

GENERAL COMMENT No. 12 (1999)
The right to adequate food, (Art. 11)

Introduction and basic premises

1. The human right to adequate food is recognized in several instruments under international law. The International Covenant on Economic, Social and Cultural Rights deals more comprehensively than any other instrument with this right. Pursuant to article 11.1 of the Covenant, States parties recognize "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions", while pursuant to article 11.2 they recognize that more immediate and urgent steps may be needed to ensure "the fundamental right to freedom from hunger and malnutrition". The human right to adequate food is of crucial importance for the enjoyment of all rights. It applies to everyone; thus the reference in Article 11.1 to "himself and his family" does not imply any limitation upon the applicability of this right to individuals or to female-headed households.

2. The Committee has accumulated significant information pertaining to the right to adequate food through examination of State parties' reports over the years since 1979. The Committee has noted that while reporting guidelines are available relating to the right to adequate food, only few States parties have provided information sufficient and precise enough to enable the Committee to determine the prevailing situation in the countries concerned with respect to this right and to identify the obstacles to its realization. This General Comment aims to identify some of the principal issues which the Committee considers to be important in relation to the right to adequate food. Its preparation was triggered by the request of Member States during the 1996 World Food Summit, for a better definition of the rights relating to food in article 11 of the Covenant, and by a special request to the Committee to give particular attention to the Summit Plan of Action in monitoring the implementation of the specific measures provided for in article 11 of the Covenant.

3. In response to these requests, the Committee reviewed the relevant reports and documentation of the Commission on Human Rights and of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the right to adequate food as a human right; devoted a day of general discussion to this issue at its seventeenth session in 1997, taking into consideration the draft international code of conduct on the human right to adequate food prepared by international non-governmental organizations; participated in two expert consultations on the right to adequate food as a human right organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR), in Geneva in December 1997, and in Rome in November 1998 co-hosted by the Food and Agriculture Organization of the United Nations (FAO), and noted their final reports. In April 1999 the Committee participated in a symposium on "The substance and politics of a human rights approach to food and nutrition policies and programmes", organized by the Administrative Committee on Co-ordination/Sub-Committee on Nutrition of the United Nations at its twenty-sixth session in Geneva and hosted by OHCHR.

4. The Committee affirms that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights. It is also inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfilment of all human rights for all.

5. Despite the fact that the international community has frequently reaffirmed the importance of full respect for the right to adequate food, a disturbing gap still exists between the standards set in article 11 of the Covenant and the situation prevailing in many parts of the world. More than 840 million people throughout the world, most of them in developing countries, are chronically hungry; millions of people are suffering from famine as the result of natural disasters, the increasing incidence of civil strife and wars in some regions and the use of food as a political weapon. The Committee observes that while the problems of hunger and malnutrition are often particularly acute in developing countries, malnutrition, under-nutrition and other problems which relate to the right to adequate food and the right to freedom from hunger, also exist in some of the most economically developed countries. Fundamentally, the roots of the problem of hunger and malnutrition are not lack of food but lack of access to available food, *inter alia* because of poverty, by large segments of the world's population

Normative content of article 11, paragraphs 1 and 2

6. The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients. The right to adequate food will have to be realized progressively. However, States have a core obligation to take the necessary action to mitigate and alleviate hunger as provided for in paragraph 2 of article 11, even in times of natural or other disasters.

Adequacy and sustainability of food availability and access

7. The concept of adequacy is particularly significant in relation to the right to food since it serves to underline a number of factors which must be taken into account in determining whether particular foods or diets that are accessible can be considered the most appropriate under given circumstances for the purposes of article 11 of the Covenant. The notion of sustainability is intrinsically linked to the notion of adequate food or food security, implying food being accessible for both present and future

generations. The precise meaning of "adequacy" is to a large extent determined by prevailing social, economic, cultural, climatic, ecological and other conditions, while "sustainability" incorporates the notion of long-term availability and accessibility.

8. The Committee considers that the core content of the right to adequate food implies: The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture; The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.

9. Dietary needs implies that the diet as a whole contains a mix of nutrients for physical and mental growth, development and maintenance, and physical activity that are in compliance with human physiological needs at all stages throughout the life cycle and according to gender and occupation. Measures may therefore need to be taken to maintain, adapt or strengthen dietary diversity and appropriate consumption and feeding patterns, including breast-feeding, while ensuring that changes in availability and access to food supply as a minimum do not negatively affect dietary composition and intake.

10. Free from adverse substances sets requirements for food safety and for a range of protective measures by both public and private means to prevent contamination of foodstuffs through adulteration and/or through bad environmental hygiene or inappropriate handling at different stages throughout the food chain; care must also be taken to identify and avoid or destroy naturally occurring toxins.

11. Cultural or consumer acceptability implies the need also to take into account, as far as possible, perceived non nutrient-based values attached to food and food consumption and informed consumer concerns regarding the nature of accessible food supplies.

12. Availability refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand.

13. Accessibility encompasses both economic and physical accessibility: Economic accessibility implies that personal or household financial costs associated with the acquisition of food for an adequate diet should be at a level such that the attainment and satisfaction of other basic needs are not threatened or compromised. Economic accessibility applies to any acquisition pattern or entitlement through which people procure their food and is a measure of the extent to which it is satisfactory for the enjoyment of the right to adequate food. Socially vulnerable groups such as landless persons and other particularly impoverished segments of the population may need attention through special programmes.

    Physical accessibility implies that adequate food must be accessible to everyone, including physically vulnerable individuals, such as infants and young children, elderly people, the physically disabled, the terminally ill and persons with persistent medical problems, including the mentally ill. Victims of natural disasters, people living in disaster-prone areas and other specially disadvantaged groups may need special attention and sometimes priority consideration with respect to accessibility of food. A particular vulnerability is that of many indigenous population groups whose access to their ancestral lands may be threatened.

Obligations and violations

14. The nature of the legal obligations of States parties are set out in article 2 of the Covenant and has been dealt with in the Committee's General Comment No. 3 (1990). The principal obligation is to take steps to achieve progressively the full realization of the right to adequate food. This imposes an obligation to move as expeditiously as possible towards that goal. Every State is obliged to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger.

15. The right to adequate food, like any other human right, imposes three types or levels of obligations on States parties: the obligations to respect, to protect and to fulfil. In turn, the obligation to fulfil incorporates both an obligation to facilitate and an obligation to provide. [1] The obligation to respect existing access to adequate food requires States parties not to take any measures that result in

preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly. This obligation also applies for persons who are victims of natural or other disasters.

16. Some measures at these different levels of obligations of States parties are of a more immediate nature, while other measures are more of a long-term character, to achieve progressively the full realization of the right to food.

17. Violations of the Covenant occur when a State fails to ensure the satisfaction of, at the very least, the minimum essential level required to be free from hunger. In determining which actions or omissions amount to a violation of the right to food, it is important to distinguish the inability from the unwillingness of a State party to comply. Should a State party argue that resource constraints make it impossible to provide access to food for those who are unable by themselves to secure such access, the State has to demonstrate that every effort has been made to use all the resources at its disposal in an effort to satisfy, as a matter of priority, those minimum obligations. This follows from Article 2.1 of the Covenant, which obliges a State party to take the necessary steps to the maximum of its available resources, as previously pointed out by the Committee in its General Comment No. 3, paragraph 10. A State claiming that it is unable to carry out its obligation for reasons beyond its control therefore has the burden of proving that this is the case and that it has unsuccessfully sought to obtain international support to ensure the availability and accessibility of the necessary food.

18. Furthermore, any discrimination in access to food, as well as to means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status with the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic, social and cultural rights constitutes a violation of the Covenant.

19. Violations of the right to food can occur through the direct action of States or other entities insufficiently regulated by States. These include: the formal repeal or suspension of legislation necessary for the continued enjoyment of the right to food; denial of access to food to particular individuals or groups, whether the discrimination is based on legislation or is pro-active; the prevention of access to humanitarian food aid in internal conflicts or other emergency situations; adoption of legislation or policies which are manifestly incompatible with pre-existing legal obligations relating to the right to food; and failure to regulate activities of individuals or groups so as to prevent them from violating the right to food of others, or the failure of a State to take into account its international legal obligations regarding the right to food when entering into agreements with other States or with international organizations.

20. While only States are parties to the Covenant and are thus ultimately accountable for compliance with it, all members of society - individuals, families, local communities, non-governmental organizations, civil society organizations, as well as the private business sector - have responsibilities in the realization of the right to adequate food. The State should provide an environment that facilitates implementation of these responsibilities. The private business sector – national and transnational - should pursue its activities within the framework of a code of conduct conducive to respect of the right to adequate food, agreed upon jointly with the Government and civil society.

Implementation at the national level

21. The most appropriate ways and means of implementing the right to adequate food will inevitably vary significantly from one State party to another. Every State will have a margin of discretion in choosing its own approaches, but the Covenant clearly requires that each State party take whatever steps are necessary to ensure that everyone is free from hunger and as soon as possible can enjoy the right to adequate food. This will require the adoption of a national strategy to ensure food and nutrition security for all, based on human rights principles that define the objectives, and the formulation of policies and corresponding benchmarks. It should also identify the resources available to meet the objectives and the most cost-effective way of using them.

22. The strategy should be based on a systematic identification of policy measures and activities relevant to the situation and context, as derived from the normative content of the right to adequate food and spelled out in relation to the levels and nature of State parties' obligations referred to in paragraph 15 of the present general comment. This will facilitate coordination between ministries and regional and local authorities and ensure that related policies and administrative decisions are in compliance with the obligations under article 11 of the Covenant.

23. The formulation and implementation of national strategies for the right to food requires full compliance with the principles of accountability, transparency, people's participation, decentralization, legislative capacity and the independence of the judiciary. Good governance is essential to the realization of all human rights, including the elimination of poverty and ensuring a satisfactory livelihood for all.

24. Appropriate institutional mechanisms should be devised to secure a representative process towards the formulation of a strategy, drawing on all available domestic expertise relevant to food and nutrition. The strategy should set out the responsibilities and time-frame for the implementation of the necessary measures.

25. The strategy should address critical issues and measures in regard to all aspects of the food system, including the production, processing, distribution, marketing and consumption of safe food, as well as parallel measures in the fields of health, education, employment and social security. Care should be taken to ensure the most sustainable management and use of natural and other resources for food at the national, regional, local and household levels.

26. The strategy should give particular attention to the need to prevent discrimination in access to food or resources for food. This should include: guarantees of full and equal access to economic resources, particularly for women, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technology; measures to respect and protect self-employment and work which provides a remuneration ensuring a decent living for wage earners and their families (as stipulated in article 7 (a) (ii) of the Covenant); maintaining registries on rights in land (including forests).

27. As part of their obligations to protect people's resource base for food, States parties should take appropriate steps to ensure that activities of the private business sector and civil society are in conformity with the right to food.

28. Even where a State faces severe resource constraints, whether caused by a process of economic adjustment, economic recession, climatic conditions or other factors, measures should be undertaken to ensure that the right to adequate food is especially fulfilled for vulnerable population groups and individuals.

Benchmarks and framework legislation

29. In implementing the country-specific strategies referred to above, States should set verifiable benchmarks for subsequent national and international monitoring. In this connection, States should consider the adoption of a framework law as a major instrument in the implementation of the national strategy concerning the right to food. The framework law should include provisions on its purpose; the targets or goals to be achieved and the time-frame to be set for the achievement of those targets; the means by which the purpose could be achieved described in broad terms, in particular the intended collaboration with civil society and the private sector and with international organizations; institutional responsibility for the process; and the national mechanisms for its monitoring, as well as possible recourse procedures. In developing the benchmarks and framework legislation, States parties should actively involve civil society organizations.

30. Appropriate United Nations programmes and agencies should assist, upon request, in drafting the framework legislation and in reviewing the sectoral legislation. FAO, for example, has considerable expertise and accumulated knowledge concerning legislation in the field of food and agriculture. The United Nations Children's Fund (UNICEF) has equivalent expertise concerning legislation with regard to the right to adequate food for infants and young children through maternal and child protection including legislation to enable breast-feeding, and with regard to the regulation of marketing of breast milk substitutes.

Monitoring

31. States parties shall develop and maintain mechanisms to monitor progress towards the realization of the right to adequate food for all, to identify the factors and difficulties affecting the degree of implementation of their obligations, and to facilitate the adoption of corrective legislation and administrative measures, including measures to implement their obligations under articles 2.1 and 23 of the Covenant.

Remedies and accountability

32. Any person or group who is a victim of a violation of the right to adequate food should have access to effective judicial or other appropriate remedies at both national and international levels. All victims of such violations are entitled to adequate reparation, which may take the form of restitution, compensation, satisfaction or guarantees of non-repetition. National Ombudsmen and human rights commissions should address violations of the right to food.

33. The incorporation in the domestic legal order of international instruments recognizing the right to food, or recognition of their applicability, can significantly enhance the scope and effectiveness of remedial measures and should be encouraged in all cases. Courts would then be empowered to adjudicate violations of the core content of the right to food by direct reference to obligations under the Covenant.

34. Judges and other members of the legal profession are invited to pay greater attention to violations of the right to food in the exercise of their functions.

35. States parties should respect and protect the work of human rights advocates and other members of civil society who assist vulnerable groups in the realization of their right to adequate food.

International obligations
States parties

36. In the spirit of article 56 of the Charter of the United Nations, the specific provisions contained in articles 11, 2.1, and 23 of the Covenant and the Rome Declaration of the World Food Summit, States parties should recognize the essential role of international cooperation and comply with their commitment to take joint and separate action to achieve the full realization of the right to adequate food. In implementing this commitment, States parties should take steps to respect the enjoyment of the right to food in other countries, to protect that right, to facilitate access to food and to provide the necessary aid when required. States parties should, in international agreements whenever relevant, ensure that the right to adequate food is given due attention and consider the development of further international legal instruments to that end.

37. States parties should refrain at all times from food embargoes or similar measures which endanger conditions for food production and access to food in other countries. Food should never be used as an instrument of political and economic pressure. In this regard, the Committee recalls its position, stated in its General Comment No. 8, on the relationship between economic sanctions and respect for economic, social and cultural rights.

States and international organizations

38. States have a joint and individual responsibility, in accordance with the Charter of the United Nations, to cooperate in providing disaster relief and humanitarian assistance in times of emergency, including assistance to refugees and internally displaced persons. Each State should contribute to this task in accordance with its ability. The role of the World Food Programme (WFP) and the Office of the United Nations High Commissioner for Refugees (UNHCR), and increasingly that of UNICEF and FAO is of particular importance in this respect and should be strengthened. Priority in food aid should be given to the most vulnerable populations.

39. Food aid should, as far as possible, be provided in ways which do not adversely affect local producers and local markets, and should be organized in ways that facilitate the return to food self-reliance of the beneficiaries. Such aid should be based on the needs of the intended beneficiaries. Products included in international food trade or aid programmes must be safe and culturally acceptable to the recipient population.

The United Nations and other international organizations

40. The role of the United Nations agencies, including through the United Nations Development Assistance Framework (UNDAF) at the country level, in promoting the realization of the right to food is of special importance. Coordinated efforts for the realization of the right to food should be maintained to enhance coherence and interaction among all the actors concerned, including the various components of civil society. The food organizations, FAO, WFP and the International Fund for Agricultural Development (IFAD) in conjunction with the United Nations Development Programme (UNDP), UNICEF, the World Bank and the regional development banks, should cooperate more effectively, building on their respective expertise, on the implementation of the right to food at the national level, with due respect to their individual mandates.

41. The international financial institutions, notably the International Monetary Fund (IMF) and the World Bank, should pay greater attention to the protection of the right to food in their lending policies and credit agreements and in international measures to deal with the debt crisis. Care should be taken, in line with the Committee's General Comment No. 2, paragraph 9, in any structural adjustment programme to ensure that the right to food is protected.

Notes

[1] Originally three levels of obligations were proposed: to respect, protect and assist/fulfil. (See *Right to adequate food as a human right*, Study Series No. 1, New York, 1989 (United Nations publication, Sales No. E.89.XIV.2).) The intermediate level of "to facilitate" has been proposed as a Committee category, but the Committee decided to maintain the three levels of obligation.